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PROCEEDINGS

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BEFORE

COMMITTEE OF ASSEMBLY

OF THE STATE OF NEW YORK,

APPOINTED

To Investigate Municipal Affairs of
Brooklyn, New York,

PURSUANT TO

RESOLUTION OF THE ASSEMBLY,

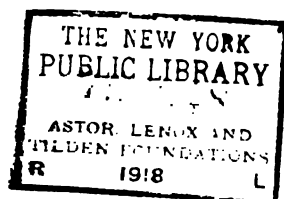
February 9, 1887.



NEW YORK :

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1887.



NOV 1918
JULY
1918

COMMON COUNCIL CHAMBER, }
CITY HALL. }

BROOKLYN, N. Y., March 4, 1887.

Present—

The Committee—MR. BACON, Chairman, and MESSRS. ARNOLD, COLE, GREENE and CUTLER.

Counsel to the Committee—MESSRS. JNO. E. PARSONS, W. W. GOODRICH and EDWARD M. SHEPARD.

THE CHAIRMAN : Gentlemen, please come to order. This Committee is met pursuant to the following order :

Whereas, The Assembly, on the 8th day of February, 1887, adopted the following resolution :

Whereas, The grand jury of the county of Kings has made two several presentments to the court of sessions of said county, wherein they allege that they feel satisfied that abuses exist in the administration of public affairs which, if not checked, and checked speedily, will result disastrously to the City of Brooklyn ; that certain officials engage in recklessness wholly unwarranted, in violation of law as they believe, and yet they are powerless to remedy the evil ; that a state of things exists in the municipality of Brooklyn which should receive attention at the hands of the Attorney-General of the State and of the Legislature, and that such presentment was made as a warning to all offenders, and that the Legislature might be justified in taking action in the matter ; and,

Whereas, The agitations in the newspapers of Brooklyn and New York and common rumor show a thoroughly dishonest administration of the government of the city of Brooklyn and the county of Kings, by men who are seeking their own pecuniary profit, irrespective of the duties of their office or the interests of the city and county : therefore

Resolved, That a committee of five be appointed by the Speaker of this House, and that the same be and they

are hereby authorized and requested to make an investigation into the administration of every department of the government of the city of Brooklyn and county of Kings, and that they report to this Assembly, to the end that this House may know whether the crimes and irregularities alleged to have been committed in the said departments of the city of Brooklyn and county of Kings really exist, and that early and efficient legislation may be had to prevent the repetition of irregularities and punish crime : said committee shall be authorized to send for persons and papers, and employ counsel and a stenographer : now, therefore, be it further

Resolved, That said committee is hereby authorized, directed and empowered to make an investigation into the administration of the local government, common council and every department, civil, criminal and judicial, of the government of the city of Brooklyn and county of Kings, and that they report to this Assembly by a bill, or otherwise, to the end that the Legislature may know whether the crimes, misdemeanors and irregularities alleged to have been committed in the said departments of the city of Brooklyn and county of Kings really exist, and that early and efficient legislation may be had to prevent the repetition of irregularities and punish crimes ; said committee shall be authorized to send for books, papers and persons, and employ counsel and a stenographer, and incur such other expenses as they may deem necessary, including the employment of an expert accountant for the use of the committee ; and said committee is authorized to hold their meetings in such place, or places, within the State as they shall determine upon. Said committee to report on or before April 1st, 1887.

Mr. Speaker appointed as such committee Messrs. BACON, ARNOLD, COLE, GREENE and CUTLER.

C. A. CHICKERING,
Clerk.

The Counsel nominated and the Committee appointed as Official Stenographer, Mr. James H. Fish, with authority to engage such assistants as the service required, and Emory P. Close and Arthur D. Allen were designated as such assistants.

The Stenographer was instructed by the Committee to print the record from day to day, and to incur the necessary expense therefor including such labor at night as necessary to insure the prompt daily printing of the record.

By request of counsel, the Sergeant at Arms called the names of witnesses subpoenaed to attend to-day. Some of the gentlemen called not responding, counsel said :

MR. PARSONS: I think, Mr. Chairman, it should be understood that witnesses we subpoena are to attend early, at the opening hour; otherwise it is easy to see that great delay and difficulty will result. Mr. Ranken not being present, we will start with his assistant, Mr. Barnard.

(MR. BARNARD then took the stand.)

George G. Barnard, being duly sworn and examined as a witness, testifies as follows :

BY MR. PARSONS: Q. What is your official position in the County Clerk's Office, Mr. Barnard?

A. Deputy County Clerk.

Q. How long have you held the position?

A. Seventeen years.

Q. Continuously?

A. Yes, sir.

Q. When did the present County Clerk enter upon the duties of his office?

A. January 1st, 1886.

Q. Who immediately preceded him?

A. Rodney Thursby.

Q. And for how many years did he hold the office?

A. Three years prior to that.

Q. Have you been served with a subpoena requiring the production of all books containing names of employees, statement of salaries, account of all fees, and other moneys

received, and of all disbursements of the office of the County Clerk

A. No sir. The County Clerk has been served with that. He is arranging those things.

Q. Have you seen the subpoena that was served on the County Clerk?

A. I have, sir.

Q. What has been done in the way of compliance with that subpoena?

A. Well, four of us have been working ever since, and they are working now, up from the time he received the subpoena.

Q. Are the books kept in the office which contain the names of the employees of the office?

A. Yes, sir.

Q. Is there a separate book in which those names appear?

A. Yes; those names appear in the cash book; cash payments; cash expenditures.

Q. Is that book here?

A. No, sir.

Q. Are salaries paid in the County Clerk's Office?

A. By the County Clerk; yes, sir.

Q. Is a book kept which shows the amounts of salaries paid to the parties by whom the salaries are received?

A. Yes, sir.

Q. Is that a separate book?

A. No, sir.

Q. In what book does that information appear?

A. In the cash book.

Q. Is that the book which is not here?

A. That is not here. That will be here in a few minutes. All those papers will be here.

Q. Is the County Clerk's Office a salaried office, or an office the payment for services rendered in which is by fees?

A. It is a fee office. No salary is paid by the Government.

Q. Has that been so during all the time that you have been connected with the office?

A. Yes, sir.

Q. Is there a book which purports to show the fees received by or in the office?

A. Yes, sir; daily receipts; daily receipts and expenditures.

Q. Is that a separate book?

A. Yes, sir.

Q. By whom is that book kept?

A. I keep that book the most of the time?

Q. Who assists you?

A. Mr. Tredwell and the County Clerk.

Q. Is there also kept in the office a book showing the disbursements of the office?

A. The disbursements are in that same book.

Q. What books have been examined by you and those who have assisted you during the four days which you state have been devoted to preparing to obey this subpoena?

A. This cash book I spoke of which contains all the receipts, and all the disbursements.

Q. One single book?

A. One single book, yes, sir.

Q. Give, if you please, the names of the force of the office; I mean the names of those officials who have separate and distinct duties, and describe the offices which they fill, beginning with the County Clerk himself?

A. John M. Ranken, County Clerk; myself, as Deputy; Daniel M. Tredwell, searcher; Henry B. White, searcher; John Naumer, searcher; Oliver E. Tredwell, searcher; Dennis J. Clare, Deputy Clerk; Frank L. Barnard, Assistant; James B. Casey, Deputy Clerk; Levi Holmes, Record Clerk; John Neeson, Index Clerk; James J. McCaffrey, copyist; Joseph D. Duggan, copyist; Alfred McDonald, copyist; Alfred J. Herman, copyist; John J. Wilbur, copyist; James McMahan, copyist; Henry Ranken, Assistant Record Clerk. I believe I have mentioned all in the office. Mr. Ranken has just brought this paper. I will call these names over, if you please.

MR. PARSONS: If you will, do it quietly, and let Mr. Fish see if your answer corresponds.

THE WITNESS : Now do you want to know the special deputies appointed to act in the Court by the County Clerk ?

Q. We will not ask you to give their names at the present time, but will you describe any class-s of persons attached to the County Clerk's office whose duties are outside of the office ?

A. Well, the special deputies that I was going to ask about perform services in the Supreme and County Courts.

Q. Does Mr. Ranken give personal attention to the duties, and if so, to what department of the duties of the office.

A. Well, Mr. Ranken is there every day to give advice ; at least giving attention to any particular department anywhere where it is required of him, and performing any duties that he feels like doing.

Q. Does that mean that he is ready to discharge duties rather than that he does discharge them ?

A. He does discharge them, and he is there nearly every day ; very nearly every day in the year.

Q. Describe in some general way what duties, if any, he gives personal attention to ?

A. He files papers ; he takes depositions ; attaches certificates ; he has administered the oath to nearly every commissioner of deeds, and nearly every officer appointed since he has been in the office, and notary publics, as well.

Q. In Mr. Ranken's absence, who attends to these duties ?

A. I do, sir.

Q. State in a general way the duties to which you give personal attention ?

A. I receive all the papers that are presented for filing, and administer all the oaths in the absence of the County Clerk, attach all certificates to papers that are presented there for certificates ; and certify to the correctness of all records when required to ; have a general supervision of all the clerks in the office ; estimate the work that they do, and pay them accordingly. Some are paid by the

piece by the County Clerk, and some salaries; salaries and fees both.

Q. Is there any distinction between the duties discharged by Mr. Daniel Tredwell as searcher, and those discharged by the other employees who you have described as searchers?

A. In my absence Mr. Tredwell takes my place, if the County Clerk is not there. I rely upon Mr. Tredwell to take my place.

Q. What are the hours of the office?

A. Nine A. M. to four, except Saturdays. Nine A. M. to one P. M. on Saturdays.

Q. How much of Mr. Ranken's time is spent at the office?

A. He gets there very early. He is usually there by ten o'clock in the morning, and he stays there until after four in the afternoon. There are, of course, exceptions.

Q. Is what you have stated the rule, or the exception?

A. Occasionally he is absent during the entire day. That very rarely occurs.

Q. Do you mean to be understood that he spends a large part of every day at the office?

A. Yes, sir. More time than all the other County Clerks ever did put together for twenty two years.

Q. I am not comparing what Mr. Ranken does by what has been done by preceding county clerks, but wish to ascertain, if I can, how much of Mr. Ranken's actual time is required for the discharge of those duties which you have described as performed by him?

A. How much of it is required? Well, if he was not there I would do the entire business. I have done it for years. But his presence there assists me wonderfully.

Q. In what way does it assist you?

A. He relieves me from administering oaths, and filing papers, and making certificates, and certifying papers, and signing his name, which I am obliged to do to every paper which leaves the office.

Q. Are not those duties to which you have just referred clerical in their character—filing papers, making out certificates, etc.?

A. Yes, sir; first of all, in certifying to the signature of officers, he must compare them with the signatures filed with us, and use some judgment in that respect, in certifying to the genuineness; and then in certifying to the authenticity of papers he must compare them and see that they are correct.

Q. Was there any change in the staff of the office at the time or near the time that Mr. Ranken became County Clerk?

A. No, sir; I don't recollect of any.

Q. During what length of time then have these persons other than Mr. Ranken, to whom you have referred, held their positions?

A. Well, most of them have been there seventeen to thirty years; I can't tell exactly now. There is one or two that have been there for a couple of years.

Q. Who are they?

A. Mr. Ranken's son has been there since he was appointed, added to the list. I said a couple of years, but I can go a little further, and the other one has been there four or five years.

Q. What is his name?

A. His name is Barnard—Frank L. Barnard—and the other is James McMahan. And I will say to that we have had to put on a couple of additional copyists within the past year.

Q. Have you mentioned their names in the list that you have testified to?

A. Yes, sir.

Q. You may repeat their names, if you please?

A. John J. Wilbur and Alfred McDonald.

Q. What duties are discharged by Mr. Ranken's son?

A. He writes—fills in certificates, and assists the Record Clerk in getting out papers when called for, and assists the Equity Clerk in indexing papers.

Q. Are either of the subordinate positions (and by that term I include all the positions under the County Clerk himself) to which you have referred salaried positions?

A. By the County Clerk?

Q. By the County Clerk.

A. Yes, sir.

Q. Are they all salaried positions?

A. Not all; no, sir.

Q. Does the divisions between those positions which are salaried and those which are not, depend upon the character of duties discharged?

A. Yes, sir.

Q. And if so, what is the case of copyists, and what of searchers.

A. The copyists are paid so much per folio, ranging from four to six cents per folio for the amount of work they do. The searchers are paid five dollars a day. The Equity Clerk the same, five dollars a day; the index clerk and deputy clerks.

Q. Paid by the County Clerk?

A. By the County Clerk out of his receipts.

Q. Which of the persons named by you receive salaries?

A. Let me have that list and I can tell.

Q. When you mention the office please to mention the incumbent of the office and the amount of salary?

A. Myself, as deputy, I get a yearly salary, I get a yearly salary of \$3,000; D. M. Tredwell, searcher, five dollars a day; H. B. White, searcher, five dollars a day; John Naumer, searcher, five dollars a day; O. E. Tredwell, searcher, five dollars a day; F. L. Barnard, Deputy Clerk, five dollars a day; James B. Case, Equity Clerk, five dollars a day; D. J. Clare, Equity Clerk, five dollars a day; Levy Holmes, Record Clerk, twenty-one dollars a week; Henry B. Ranken, Assistant, ten dollars a week; the balance of the clerks are paid by fees.

Q. Mr. Barnard, in what does the revenue of the office consist? You say that it is a feed office. Describe in a general way from what sources the revenue of the office comes?

A. From searches—official searches—from filing and recording notices of pendency of action, judgments and decrees, transcripts, certificates and certifying to the correctness of documents, and, of course, any copies made there.

Q. Have you now stated all the sources from which revenue comes to the office.

A. I believe I have, sir.

Q. Do you feel confident about it?

A. Well, you might refresh my recollection. I don't know of any.

Q. I don't wish you to rely upon me to refresh your memory, sir. I am asking you for information. Do you feel satisfied that you have stated all the sources from which the revenue of the office comes?

A. I do, sir.

Q. Who receives the money which comes to your office?

A. Whoever takes charge of the deputy's desk—generally. That is, myself.

Q. And in your absence?

A. Mr. Tredwell and the County Clerk.

Q. Is all the money which comes to the office entered in the books?

A. Yes, sir.

Q. Is that an absolute and invariable rule, that every charge which is made at the office, or every item of money which is paid there is entered in an appropriate book?

A. Yes, sir; in the office.

Q. Are there received at the office fees which are understood to be extra in their character?

A. Yes, sir.

Q. What fees come under that description—extra fees?

A. Those are the fees that where arrangements are made by the searchers to expedite the searches out of office hours or within a very limited time.

Q. Are those the only extra fees which the office receives?

A. Well, the office does not receive those fees.

Q. By the office I include not only the County Clerk himself, but all the employees of the office?

A. The only extra fees—some of the clerks may receive extra compensation for making copies of papers, or acting as witnesses, to carry copies of papers to a distance to be read in evidence.

Q. Under what circumstances are extra fees paid for making copies of papers?

A. You may call at the office and require that 150 folios—you may call this afternoon or this noon—and require it to be ready to-morrow morning at nine o'clock; the copyist would have to stay there until he completes it, probably half the night, or all night I have known him to work. Under those circumstances, those requiring that service usually give the copyist an extra compensation, or make some other arrangement.

Q. Is that purely a matter of arrangement between the copyist and the person desiring the service?

A. Yes, sir; the County Clerk knows nothing of it.

Q. What becomes of the fees which you describe as extra fees for services?

A. They are divided, and go to the searchers making them.

Q. Exclusively?

A. Exclusively, except the percentage which I get. I get twenty per cent. of that, in addition to my salary.

Q. Do you mean to be understood that all of these extra fees, with the exception of the twenty per cent. which is received by you, the entire residue goes to the searcher rendering the service?

A. Yes, sir.

Q. What proportion of service made at the office pays this extra charge?

A. I can't state positively, but I believe more than one quarter.

Q. Does that imply that it is not very much more than approximately one quarter?

A. No, sir; it may be a half.

Q. How much more than a half may it be?

A. I would have to refer to the books, Mr. Parsons. Of course I cannot carry everything in my mind, but I could tell you almost definitely by referring to the Search Book.

Q. Are you not sufficiently informed on the subject, Mr. Barnard, to be aware that in a large proportion of cases—the large majority of cases, this extra charge is made and paid?

A. I have said more than a quarter; it may be more than a half.

Q. May it be more than seventy-five per cent?

A. I don't know. I don't believe it is seventy-five per cent.

Q. Is there any ratio between the extra charge and the regular charge?

A. Well, that is regulated by the searcher and generally by the parties making the search. The extra search is not as much, generally, as the official fees allowed to the County Clerk.

Q. You say generally it is not as large. Do you mean that sometimes it is larger?

A. Sometimes it is larger; sometimes the search is larger, and the searcher requires a heavier fee—a larger fee.

Q. What is the explanation of the fact that so large a proportion of searches made in the office are accompanied by this extra charge?

A. Because nearly all the searches of that description that come in are wanted in two or three days. Very rarely they give a week's time to do such a search in. They want it in two or three days; some matter or transaction between the lawyers and clients that requires it.

Q. When this extra charge is not paid, what is the usual length of time occupied in making a search?

A. Well, that depends upon the season of the year. At this season of the year it will probably take sixteen or eighteen days to take searches in their regular order.

Q. And down to about what time can that be reduced by paying the extra charge?

A. A search will be done, if it is possible, at any time by the searchers after one day, by paying an extra charge.

Q. Is the work upon these searches for which an extra charge is paid done during official hours?

A. Sometimes.

Q. Is not then the result of that to retard—to delay service for which no extra charge is paid?

A. No; because there is one of the searchers, or two of them have that privilege, always have that privilege from

the abstracts that they have brought there in the office—private abstracts.

Q. Do you mean that the extra charge is only paid in the case of searches, the work upon which was done by particular searchers?

A. Yes, sir—no, I mean to say that all the searchers are permitted to make extra charges, and make an agreement with the lawyers, and make extra charges—all the searchers; but they are not all done within the business hours as you referred to.

Q. I don't quite comprehend what you mean. Do you mean that there are certain searchers who are permitted, during those regular hours, to do this extra work?

A. Yes, sir.

Q. Who are they?

A. Mr. D. M. Tredwell and Mr. White.

Q. Am I to understand then that in the case of searches for which extra charge is made, done by other searchers, that the work is done exclusively out of office hours?

A. I believe so; most generally so. That is the instruction.

Q. Do you not know what the fact is?

A. I do not, sir.

Q. Who does?

A. The searchers themselves.

Q. And only they?

A. They are the only ones that can give that information.

Q. Has the volume of business done at the County Clerk's office increased during the period that you have been connected with the office?

A. Yes, sir.

Q. And have the fees correspondingly increased?

A. There has been no increase of fees since 1868, I believe.

Q. I am not speaking now about the rate of fees. I mean the total amount?

A. Well, no; I don't believe it has. I am quite satisfied that the revenue of the office is not as great to-day as it was in former years.

Q. What is the explanation of that ?

A. It is on account of the official searches—the stagnation in the sale of real estate for a few years past.

Q. Have you made up a statement of the gross amount of fees shown to have been received since Mr. Ranken became County Clerk, by the books of the office ?

A. By the books kept in the office, yes, sir.

Q. Is that statement here ?

A. I believe Mr. Ranken has it here.

Q. Will you please to produce the statement ?

A. I should think Mr. Ranken ought to produce that, because he superintended it. I believe it is absolutely correct, but he superintended this.

Q. What work was done by you in preparing the statements ?

A. Only just perhaps three or four hours on it, in assisting him in calling off. I have no objection, understand me, to produce that, and swear that I believe that it is correct.

Q. Who transcribed the items from the book to the statement ?

A. Mr. Ranken and Mr. F. L. Barnard. I can tell if I saw the writing ; I can tell from the handwriting. (Witness examines paper produced by the County Clerk). This, the first part, is in the handwriting of F. L. Barnard.

Q. I only asked you at the present time about the statement of receipts ?

A. Yes, sir. The accounts of the office are balanced daily, so that one party would have to read that balance. He would have to subtract the balance carried from yesterday to to-day, so as to get the receipts of the office to-day over ; so that required one to read off.

Q. What part, if any, did you take in this service ?

A. Well, at the beginning I believe I started it for January and February, 1886, and then I read off the amount paid off from the pay rolls, and other expenses.

Q. I am only asking you now about the statement of receipts ?

A. Yes, sir.

Q. I want to find out what actual service was rendered by you in the preparation of the statement of receipts?

A. I believe I called off the balances for January and February, 1886.

Q. Does that mean that with the rest of the statements you had nothing whatever to do?

A. No; because I was called in frequently to explain items and expenditures there.

Q. Mr. Barnard, have you personal knowledge of the amount shown by the books of the office to have been received in fees during the year 1886?

A. I have not, sir; except as in this paper contained.

Q. Is there any year during all the time that you have held the position of Deputy Clerk for which you can inform the Committee what is the total amount of fees received in the year?

A. I cannot, sir.

Q. Can you do so approximately?

A. I cannot, sir.

Q. Mr. Barnard, do you mean to be understood that you are absolutely ignorant of the total annual revenue of this office with which during all this time you have been connected?

A. I mean to say I have never sat down—and that is the way you have to do it—to do it as that was done. I have never done it since I have been connected with the office; it takes too much time, and I never had the curiosity to know.

Q. Have you never had in your mind any idea of what the total annual revenue of the office was?

A. Only by guess-work.

Q. Is there any reason why you should not inform yourself upon this subject?

A. No reason, except that I never had the time. My time is so much occupied in the office that I never had the time to do this. I certainly did not care to take evenings to ascertain it, because it would be of no benefit to me.

Q. Do not those fees average somewhat? Is there not approximately an average amount month by month, or year by year, or day by day?

A. No, sir; they vary; you can see by those figures that they vary.

Q. I can't see by those figures, because you don't seem to know about them; therefore I ask you in relation to your own knowledge?

A. I don't think there is an average.

Q. I don't want the exact average; but what I wish to ascertain is whether there is not some general average amount by the day, or by the week, or by the month, or by the year, by which we can approximately ascertain the revenue of the office?

A. I don't think there is, sir.

Q. What amount of fees have you known to be received at the office in the course of a day?

A. The highest amount?

Q. I will take the highest amount that you now remember.

A. I can recollect as much as \$200 in a single day.

Q. Can you recollect a larger amount than \$200?

A. Well, you give me that statement, if you please. I will be willing to swear from that statement.

MR. PARSONS: It is not mine to give you.

THE WITNESS: All right; I will take the record.

MR. GREENE: Mr. Parsons, why can you not get all you want from the paper itself? He says the Clerk will be able to do that.

MR. PARSONS: Yes; but if you will pardon me, unless we put Mr. Barnard on one side and examine the Clerk, Mr. Ranken, and then go on to complete Mr. Barnard's examination. I will, of course, do as the Committee say in regard to the whole matter.

THE CHAIRMAN: We will let the counsel take their own course.

MR. PARSONS: I think, Judge Greene, we will get on without any difficulty about it. I think very likely this statement will very shortly come in evidence, and that Mr. Barnard will give us a statement about it that will let it come in.

The WITNESS: There is an entry here, July 2, \$900.25.

By MR. PARSONS: Q. On one day?

A. On one day, July 2.

Q. In order to expedite, are you willing to assume the general accuracy of that statement?

A. Yes, sir.

Q. Will you then state what by that statement appears to have been the revenue of the office, and by that I mean the amount received for fees during the year 1886?

A. There appears to have been received —

Q. I wish to know by this statement, and I fear we shall become mixed up if you do not answer the exact question.

A. I see that the fees received, by this statement, amount to \$25,755.49.

Q. For the year 1886?

A. For the year 1886; and add to that amount an amount which was paid by the County of Kings to Mr. Ranken for services—various services, \$6,859.77.

Q. Are you aware of this fact that the source of information from which that statement has been prepared is the book which you have described as kept in the office?

A. Yes, sir.

Q. So that if there is any inaccuracy in it, it simply consists in errors in transcribing?

A. Yes, sir, in transcribing.

Q. Outside of the amounts shown by that statement what are the fees that come to the office?

A. There are fees for filing and recording all papers connected with special proceedings. Do you want me to enumerate everything?

Q. Yes. I want to find out whether that does embrace everything, and if it does not, to know what fees were received outside of what that paper shows?

A. This embraces everything. Everything that is paid into the office. Everything.

Q. Does it include extra charges on searches?

A. It does not include that.

Q. My inquiry is to ascertain whether it includes everything received at the office except those extra charges?

A. Yes, sir, those are not entered in the book at all.

Q. Are you able to state in any general way—I will not confine you to any exactness or absolute accuracy—about what proportion of that total amount of \$25,755.49 comes from searches?

A. Well, I couldn't tell that.

Q. Are they the large source of the revenue of the office?

A. Yes, sir; the searches are.

Q. Do you mean to be understood that the searchers who receive five dollars a day receive in addition to that eighty per cent of all these extra charges?

A. I do, sir.

Q. And do they retain that amount?

A. To themselves, yes, sir; so far as I know.

Q. I wish to inquire fully, and please to answer as fully as you can, whether this means that there is no division of those extra charges outside of that to which you have testified; that is to say, the twenty per cent. received by yourself as an addition to your own salary?

A. That is absolutely correct.

Q. Are you not able to state what addition to your salary is made by this twenty per cent.?

A. I cannot tell exactly, but I believe it would perhaps \$1,200 more.

Q. Not more than that?

A. I can't say; I never figured that up. If I had known what the Committee wanted I could give it in exact figures, and I am willing to give it.

Q. I am not questioning your willingness at all?

A. Well, I can't remember. I have so much to remember. That thing I never kept any account that I know of.

Q. Did you not observe it was one of the means of information asked for by the subpoena?

A. Not from myself. My subpoena does not contain anything of that kind. I was to bring with me the blank.

Q. Is there any amount which you can state which you think would certainly cover the total in the course of a year of these extra charges?

A. I cannot state it definitely. I wouldn't like to do it without going over the books.

Q. Can you say whether \$10,000 a year will cover it?

A. The extra?

Q. I am only asking you now about the extra.

A. Well, I believe \$10,000 a year will cover it.

Q. Can you be sure that \$15,000 will?

A. I believe I am sure that \$15,000 will.

Q. When you say you believe you are sure I am led to believe you are not?

A. I am not going to give positive information when I do not possess it.

Q. What source is there from which that can be made definite?

A. The searchers' book. What we call the search book showing the amount of fees they have charged extra.

Q. Do those books belong to the regular books of the office?

A. Yes, sir.

Q. They are not the personal books of the searchers?

A. No, sir, they are not personal books.

Q. My associates suggest that possibly there may be other fees which are extra in their character received at the office in addition to those which you describe as extra fees from searches. I wish you to state fully and frankly whether there are other directions from which extra fees come to the office?

A. Not except what I have stated. The copyists may be asked to stay there all night and make a copy and he receives that; and the notaries public and commissioners of deeds in the office probably charge for administering oaths and taking acknowledgments. Nothing in connection with the business that I know of is charged extra.

Q. Nothing extra for certifying the papers?

A. No, sir; only whatever is required of any employee in the office. That is an arrangement between him and the attorney or the person procuring that employment.

Q. Is there any book in the office which in any tabulated form shows how much of the fees received at the office re-

main after office disbursements and are taken by the County Clerk himself ?

A. No, sir. The only book is what he has copied from here, the cash book. That shows all that he has taken.

Q. Is no calculation made at any time for the purpose of ascertaining how the accounts stand, the accounts between fees received and disbursements made ?

A. Daily balances are made every evening. We go over and figure up when we close the office what we have received and what errors have been made or anything in the receipts. Make daily balances. That is carried over.

Q. Is that book here ?

A. I don't think it is. That is in use constantly at the office.

Q. How long will it take to have that book here. If we can ascertain how that book is kept it may save some delay in putting questions ?

A. I suppose I could bring that book here in fifteen minutes' time.

Q. Well, we will not interrupt for that now.

A. I believe this is a transcript from that book, an exact transcript.

Q. What I wish to ascertain, and I prefer to do that by an inspection of the book, is the mode in which the book is kept. We will ask you to bring the book here at the close of your examinations.

A. Yes, sir.

Q. Who makes the disbursements of the office ?

A. I do, generally.

Q. Who assists ?

A. Mr. Tredwell. I can have that book here.

Q. I think it would facilitate matters if that would be here ?

A. Yes, sir; I will have it brought.

Q. Did you complete your answer to the question ?

A. I said I made the disbursements generally, and was assisted by Mr. Tredwell in case of my absence from the office.

Q. Are the disbursements made from the money which is received ?

A. Yes, sir.

Q. Does the office keep a bank account ?

A. No, sir.

Q. Is it a fact then, that the payments of the office are invariably made from the money which results from the business done by the office ?

A. Yes, sir, paid right from receipts on hand.

Q. What becomes of the residue ?

A. It is paid to the County Clerk. Anything that is left, any balance that we think we do not wish for the conduct of the office, we pay to the County Clerk.

Q. Is it paid out in regular intervals or without any reference to regularity ?

A. No regular times.

Q. Is it paid in any specific amounts ?

A. Without any reference to amounts.

Q. Is there any record made in the office showing exactly the amounts turned over to the County Clerk by date and item ?

A. Yes, sir.

Q. What book is that ?

A. The same book I have sent for.

Q. The cash book ?

A. Yes, sir.

Q. Has a statement been made of those statements ?

A. Yes, sir.

Q. Where is that statement ?

A. Mr. Ranken has it ; I believe it is in here ; I don't know ; I guess the aggregate is here.

Q. If Mr. Ranken can better testify in reference to that we will call him.

A. Yes, sir.

Q. How are these large amounts which sometimes are received at the office, paid—in bills or in checks ?

A. Well, we will take, for instance, the filing of notes of issue ; you will see a large amount there ; there may be two hundred notes of issue filed on the last day of the term ; they are seventy-five cents each ; those are paid in small change ; that would be, in change ; then if there is a large search the attorney generally draws a check for the

amount of that search, or if it is a bill covering a period of two or three months, he will pay that.

Q. Where checks are received, what is the routine in reference to their use; who deposits them; how are they collected?

A. They are endorsed by the County Clerk, and I send them to the bank to have them cashed, and the money is returned to me.

Q. You mean the business in the end is altogether a business done in bills?

A. Yes, sir.

Q. In bank bills?

A. Yes, sir.

Q. When you say these checks are turned into bills at a bank do you mean the bank upon which they are drawn?

A. No, sir; we get our checks cashed generally at the Nassau National Bank here.

Q. Where is the Nassau National Bank?

A. On the corner of Remsen and Court street.

Q. Is there any account between the bank and the office showing these transactions?

A. No, sir; not that I know of. I do not believe the bank has any and I am sure I don't keep any.

Q. Is there any reason for doing the business in the way you describe. I mean instead of having the checks deposited in an ordinary bank account, having them turned into bills by the Nassau Bank?

A. It saves making a deposit. It saves me the trouble of making a deposit and I have the money there. When I have a surplus in the money drawer I pay it to the County Clerk.

Q. Is that the only reason for adopting this mode of business?

A. Yes, sir.

Q. How long has that been the routine of the business of the office?

A. I should think for twenty years or more.

Q. Is it then the fact, the money which eventually goes to the County Clerk is always received by him in bills?

A. Yes, sir. Possibly there may be a check that will

indicate the balance and that would be handed over to him, that I have not had cashed.

Q. I infer the book which one of the committee has is the book to which you have testified?

A. It looks so. I guess it is.

Q. Won't you look at it first. I will wait a moment?

(Book examined by witness.)

Q. This is the book to which you referred?

A. Yes, sir.

Q. I refer to pages 2 and 3 of this book, the dates extending from January 2d, 1886, to and including January 9th, 1886, and ask you in whose handwriting the entries are?

A. In my handwriting. This is the daily cash book. In my handwriting.

Q. Is the name by which that book goes that which you have just mentioned, the daily cash book?

A. Yes, sir.

Q. Is that a book of original entry?

A. Yes, sir.

Q. Do you mean to say that you enter in that book the receipts at the office at the very time they are received?

A. I do, sir; on the same day; probably not the very moment.

Q. I notice in the entry of January 2d, 1886, this item: "Judgment, etc., \$11.50."

A. Yes, sir; that embraces —

Q. Must not that be made up from other entries?

A. That is made up on a slate. We do not put the items down on the slate but the amount we received on a slate, not itemizing, and that is carried over. The object here is to keep a full account of the searches, all the large expenditures. These judgments are made up from judgment transcripts or anything, lis pendens, certificates of incorporation, or anything outside of searches.

Q. A gross item like that?

A. Yes, sir.

Q. And which is the aggregate of a large number of items received during the day?

A. Received from items of fifteen cents or twenty cents, or twenty-five cents, or a dollar, or twenty dollars.

Q. What mode is adopted by the office to verify the accuracy of these aggregations; how can anybody tell to-day whether the aggregate amounts entered in that book correspond really with the true amounts received?

A. Nobody can tell after it is done, after the slate is wiped out, only by the balance.

Q. How often do you wipe out the slate?

A. At four or five o'clock every afternoon. Willingly, too.

Q. Is that slate you speak of a literal slate?

A. Yes, sir, a literal slate, made up in the course of business.

Q. It is not a piece of paper but on a slate, a stone slate?

A. Yes, sir; a stone slate and a stone pencil.

Q. And washed off at the close of the day?

A. Yes, sir.

Q. I wish you would indicate from that book, if that book contains any such entry, the item of amounts received by the County Clerk personally?

A. From any services—for any service?

Q. No, from the receipts of the office?

A. I couldn't do that because the County Clerk may have stood at the desk and made an entry on the slate in his own handwriting. I would transfer that to this book.

Q. You have testified, if I understand your evidence, that out of the bills into which all the receipts of the office result there are paid the expenses of the office, and that the residue goes at different times to the County Clerk, there being no regularity about the time of payment. What I wish to see is some entry of such a payment to the County Clerk?

A. (Witness shows on page of book.) In his own handwriting there, when he takes money out. March 29th, page 29, \$50.

Q. The item reading, "1886. March 29. J. M. Ranken, cash \$50." In whose handwriting is that?

A. That is Mr. Ranken's handwriting.

Q. Will you begin on the first of January, 1886, and mention the date when first, according to that book, any amount was received by the County Clerk personally from the income of the office, and what the amount was?

A. (To MR. RANKEN): Have you got that statement? I will call them off. The first I find is March 29th, 1886. Mr. Ranken received \$50.

Q. I will ask you to state the second item in order of date which the book shows to have been received personally by Mr. Ranken?

A. April 29th, 1886, \$50, page 41.

Q. What is the next item in the order of date and the amount?

A. May 18th, 1886, page 47, \$500.

Q. That will answer for the present. Then up to that payment all that that book shows to have been personally received by Mr. Ranken was \$100 in two payments, each of \$50?

A. Yes, sir; and \$500 on that last date.

Q. Has any change been made in the mode of keeping the accounts of the office contemporaneously with the coming into office of any new incumbent?

A. No, sir; the accounts are kept to-day as they were kept when I first went into the office twenty-two years ago.

Q. Has either County Clerk within your time been connected with the office prior to the time he became County Clerk?

A. Yes.

Q. Who?

A. Mr. Charles W. Thomas.

Q. How long ago was that?

A. He was County Clerk and Deputy I believe from 1845 to January 1st, 1871.

Q. And then became County Clerk?

A. He was County Clerk somewhere about 1859, 1860 and 1861.

Q. And since that time is it a fact that every County Clerk has come to the office without having any previous participation in its duties?

A. I believe so.

Q. Is the County Clerk an elected official ?

A. He is, sir.

Q. Elected by a popular vote ?

A. He is, sir.

Q. Has the question of changing the office from a feed to a salaried office been agitated or discussed ?

A. Very much, sir.

Q. How long to your knowledge ?

A. The last ten years, I believe.

Q. What position has been taken by the office on the subject ?

A. Opposing it, sir.

Q. What has been done by the office to oppose changing the system from the reception of fees to the payment of a salary ?

A. Showing these books.

Q. Is that all ?

A. And using as strong language as possible to prevent the burdensome taxation on this city, which is overtaxed now, we believe; we believe it is more economical to the government, to the people, to have it a fee office, and we shall continue to say so as long as the business is conducted in the manner it is; it is less expensive to the government in every way; the government furnishes nothing but the office and the books; the County Clerk furnishes everything, and every man that transacts business there pays for what he gets and what he does.

Q. In such discussions as you are aware of, what amount of annual salary to the County Clerk personally has been mentioned should the change take place ?

A. I believe \$10,000 ; I am not sure whether \$10,000 or \$15,000.

Q. Were you aware of the introduction into the Assembly of a bill called the Heath bill ?

A. I was, sir.

Q. When was that introduced ?

A. I believe it was introduced January, 1886.

Q. What salary did that propose for the County Clerk personally ?

A. I believe it proposed \$10,000.

Q. And am I to understand the County Clerk opposed that bill?

A. He did.

JUDGE GREENE: That bill was introduced in 1885.

MR. PARSONS (Resuming): Q. Judge Greene suggests you are in an error?

A. Yes, sir; it was in 1885. There has been a bill every year.

Q. The Heath bill was in 1885?

A. Yes, sir.

Q. Was there a similar bill introduced in the year 1886?

A. I believe so. I believe there was.

Q. Whether such a bill was actually introduced or not, was such a bill agitated and the subject of public discussion?

A. I believe it was actually introduced. I am not sure.

Q. What salary did that propose; I mean the bill of 1886, whether introduced or talked about. What salary did that propose for the County Clerk personally?

A. I don't recollect. I don't know whether it was \$10,000 or \$8,500. I believe it was \$10,000.

Q. Was that the measure, the salary being that, which you have mentioned opposed by the County Clerk?

A. I guess he opposed it. I did any how.

Q. Have you mentioned the only ground upon which to your knowledge such a measure has been opposed?

A. I believe I have.

Q. That it would be better for the County Clerk and worse for the community?

A. Worse for the community and better for the employes in the office to have it salaried. I realize that.

Q. But how about the County Clerk, who under a salaried bill would receive \$8,500 or \$10,000?

A. He probably would get a little less. His salary would be fixed, and there would be no chance of getting an increase if there was an increase of business. The business fluctuates, I believe.

Q. Are we to understand from that that the income

which the County Clerk personally receives from the office under the present fee system is in excess of \$8,500 or \$10,000 a year?

A. I believe it is, sir.

Q. Will you then tell me what this statement which you think is accurate shows as the amount received during the year 1886 by the County Clerk?

A. I will have to take this in connection with some other paper here. I have to take it in connection with some other paper, because there is one item on that paper that is not on this.

Q. The \$6,800.

A. Yes; sir; add to this \$6,859.77.

Q. Will you see whether that is accurate. That paper shows as the gross revenue \$25,755.49?

A. That is correct.

Q. And as expenses \$23,674.58?

A. Yes, sir.

Q. Leaving for the County Clerk \$2,080.91?

A. Yes, sir. Then add to that——

Q. To reach the amount which, according to this paper, will be received by the County Clerk you add \$6,859.77?

A. Yes, sir.

Q. I am unable to comprehend how the County Clerk would be better off under this system than if he received a salary of \$10,000 a year, assuming the accuracy of these statements?

A. I will tell you. You will recollect last year there was a general strike and stagnation; I believe it a matter of public history now—about March, April and May. During that time the searching, to which we look for fees here, fell off greatly. Now, this year we may regain that and our expenses will increase in proportion to the amount of business, and in proportion to the amount of searches we do, they come up higher. Then again there has been a large falling off in the foreclosure of mortgages, which is another source of revenue to the County Clerk; the entry and filing of decrees and the recording of notices of pendency of action.

Q. Under a flourishing condition of the office, what

would be a possible amount left for the County Clerk from its income?

A. I should think \$15,000 or \$16,000, or \$18,000.

Q. A year?

A. Yes, sir.

Q. Have there not been years in the past when the amount has greatly exceeded that?

A. One of the County Clerks told me the best income he had was \$20,000. That was years ago.

Q. And that means net?

A. That means net, after paying all expenses.

Q. What year was that of which that statement was made?

A. I believe it was in the year 1870 or 1871.

Q. Assuming that business is equally satisfactory during the coming year with the year 1871, will it not or must it not result that, having reference to the great increase of business, the revenue must be very much larger than \$20,000 a year?

A. No, sir; I will give you an explanation of that question.

Q. I think the Committee would be glad to learn?

A. Prior to 1871 if you recollect—or I will go back from the start of my experience. Prior to 1865 very few official searches were made; and soon after January, 1865, or in April or May, 1865, real estate transactions commenced—speculation commenced. And from that time on where a lot was not sold once in ten years we find in a single year the lot was sold ten times. That necessitated a ten years' judgment search, for a transaction within the year. That would of course increase the fees ten times as much to the County Clerk. Now up to the present time we find that nearly every title in the city has been officially searched, and lawyers taking up the title from there, simply have it continued, and we do not find so many real estate transfers within the year that we did during those years from 1865 to 1870.

Q. Do you look upon the year 1886 as an exceptionally bad year for the office?

A. One of the bad years.

Q. One of the bad years?

A. Yes, sir.

Q. If the revenue, and by that I mean now the net income of the office, can fairly be expected to reach \$20,000 a year, will the reason against changing the system to which you have testified still exist?

A. Yes, sir; if it is \$40,000 a year it will exist.

Q. You still think it is in the interest of the community and against that of the incumbent of the office to continue the present system?

A. I do, sir.

Q. Must there not be some explanation for that other than what you have testified to?

A. It is the cost of maintaining the office—the expense. Everything is done now by supervision. I do not apprehend the county would permit a man to copy a paper by piece-work by the folio; they would employ him by the day, and I do not know who could superintend that. But we require a man to show work for the money he gets. The accounts are examined every week.

Q. But the copyists' expense of the office is comparatively an unimportant expense, is it not?

A. Sometimes, but generally it is not.

Q. And you do pay your searchers by daily amounts?

A. Yes, sir, daily labor.

Q. Upon this question of changing from a feed to a salaried office, have you communicated to the Committee all the information at your disposal which you think bears upon the subject?

A. I believe I have.

Q. That to which you have testified is the argument on your side of the subject?

A. Based upon what I have read in reference to the County Clerk's Office in New York and the Register's Office.

Q. You mean to say that even although there should be left for the County Clerk in a given year after paying all the expenses of the office, his deputies, his searchers and his copyists, \$40,000 a year, still that is better for the community than to pay him a salary of \$10,000?

A. I believe so. If I did not think so I would not say it.

Q. Will you explain, please, a little more in detail the sources from which comes this item which last year amounted to \$6,859.77, and which you describe as paid by the County, and also state what services were rendered or are assumed to have been rendered for that payment?

A. The filing of all records of convictions, in all the Courts of the County of Kings, all the Justices' Courts; copies of papers required by the Board of Supervisors; copies of election returns, I believe, of the previous year for printing; and the filing of inquisitions, certificates, the sealing and certifying to county bonds, and registering them, and all services required by the County.

Q. What fixes the amount?

A. The amount is fixed by statute, generally.

Q. You mean a statutory rate of fees?

A. Yes, sir.

Q. For filing a conviction, what is the fee?

A. Six cents for each conviction.

Q. Is there any means of ascertaining how much this item paid by the County has amounted to in consecutive years; say during the period of the last ten years?

A. Yes, sir; I think by referring to the County Treasurer's accounts, that would show.

Q. Will not the books of the County Clerk's Office show?

A. No, sir; because they are the private property of the clerks, and the books are taken away or scattered. I could not get at them.

Q. That answer anticipates another question I was about to put to you. Are there any present means of showing what has been the net revenue of the office during a series of years up to the first of January, 1886, when Mr. Ranken became County Clerk?

A. I don't know of any, sir. You can readily see when the County Clerk walks away with this book he strips me of all positive information.

Q. Does he always walk away with that book?

A. Yes, sir; he wants to take his property with him, and he does it.

Q. It is suggested to me to ask you whether the item of \$6,859.77 received from the County for the year 1886 is high or low according to the amounts at which such payments have run?

A. I think that is rather under the figure. I think it is low.

Q. What would you call a full figure?

A. I think \$9,000 generally would be a good item for that.

Q. How high has that item run within the last ten years in any one year?

A. I cannot say positively, but I think as high as \$14,000.

Q. What accounted for that amount?

A. Extra copying of indices required by the Supervisors, and extra amount of work, filing papers.

Q. Are we to understand that you regard that amount as exceptional?

A. That high amount?

Q. Yes.

A. Yes, sir, that is exceptional.

Q. What other considerable amount have you in mind now?

A. Well, I believe \$10,000 or \$11,000.

Q. Do you remember the year when \$14,000 was paid by the County?

A. I am not sure; I believe it was paid in 1883.

Q. And the year when \$10,000 or \$11,000 was received from the County, when was that?

A. I can't recollect the year, sir.

Q. Was it a recent year?

A. Probably four or five years ago.

Q. I think it is fair to ask you whether you mean to be understood that so far as you know, so far as you are informed and so far as you have reason to believe, the net amount taken by the County Clerk from the office during the year 1886 did not exceed the two sums of \$6,859.77 and \$2,080.91?

A. I believe that is absolutely correct.

Q. Is there any mode by which that subject can be made positive and definite?

A. Here it is in this book and the papers. That is the only way.

Q. There are no original memoranda as I understand left by which to verify the accuracy of that statement?

A. Nothing left.

Q. Is there any information bearing upon this question of the amounts received from the office, and the expenses to the County of the office, and affecting this question of continuing or changing it which you think should be communicated through the Committee to the Legislature?

A. I don't know of any.

Q. Have you stated all the considerations you have in mind relating to that subject?

A. I believe I have, sir.

MR. PARSONS: Unless the Committee suggest some questions we have no more at present.

BY MR. BACON: Q. Did that slate contain both debit and credit items before it was wiped out each day?

A. Yes, sir.

Q. And the same was transferred to the book?

A. Yes, sir.

Q. Any sums then taken by Mr. Ranken would be transferred?

A. Yes, sir.

Q. He received no money whatever from the County Clerk's office except \$100 until some time in May?

A. Yes, sir; \$100 in May.

Q. Was there not a large accumulation up to that time?

A. No, sir. You have got the date in May.

Q. That was when the \$500 was given?

A. That was the accumulation as appears upon the book.

Q. In other words, for the first four months there was an accumulated profit of but \$500 to the County Clerk?

A. Yes, sir. You will understand that we give credit to lawyers; those bills are sent in sometimes every three months and every six months. You will find on the first of July that when the six months bills were sent in t h

County Clerk drew out of the office \$900. But the statements made here include all the moneys received.

Q. Were all these lawyers' bills paid up on the first of January, 1887?

A. No, sir.

Q. How have you accounted for the course of the year the amounts due from these lawyers?

A. You might add to that, guessing at it. You might add to that \$2,000 to cover the whole amount. I don't think it exceeds \$2,000.

Q. Then have you not given us the amount of business transacted or only the cash received? A. The cash received.

Q. The credits due from outstanding obligations are not considered?

A. No, sir, not considered.

Q. What do you estimate them to be?

A. I say \$2,000 I believe would cover it. Some of it has not been paid yet, and never will be.

Q. You think the \$2,000 is good?

A. I don't think it is. I say that includes the good and the bad.

MR. PARSONS (resuming.) Q. Mr. Barnard, Mr. Goodrich suggested to me that I omitted to ask you about the deputies or employees of the County Clerk who are in attendance upon the Supreme Court and the County Court. How are they paid?

A. I believe a gross sum is paid to Mr. Girard M. Stevens and he pays their salaries from that, the County Clerk making the appointments at the suggestions of the Judges of the Supreme Court.

Q. Where does the money come from out of which that is paid?

A. It is appropriated by the Board of Supervisors of the County of Kings.

Q. Is that then a subject which is entirely outside of these figures to which you have testified?

A. Yes, sir; entirely outside of it.

Q. And does that consist in a gross appropriation made by the County and used by Mr. Stevens?

A. Yes, sir.

Q. From what was taken this figure of \$6,859.77, to which you have testified, as paid by the County to the County Clerk during the year 1886?

A. You mean from what memorandum?

Q. Yes, sir: from what source?

A. It is a memorandum of services, kept in a book—a book for that purpose; a charge made against the County.

Q. And what is the routine or mode of business in reference to payments made by the County?

A. They pay every six months.

Q. Does this figure then represent the sum of two semi-annual payments?

A. No, sir.

Q. What does it represent?

A. One semi-annual payment; it is from January; you did not give us the time——

Q. Correct your last answer, if you wish to?

A. That is the first semi-annual payment.

Q. You mean that this represents only the half of the year instead of the whole year?

A. That does; yes, sir.

Q. Then I have entirely misunderstood you; I have been laboring under the impression that this \$6,759.77 represents the payment for services rendered during the year 1886; is not that so?

A. No, sir.

Q. What does it represent?

A. It represents the first payment made somewhere in August or September, 1886. The second payment, I don't know whether it has been made yet or not by the County.

Q. When was it to be paid?

A. It is made sometime in January or February. I have not thought to ask whether it has been made.

Q. What means are there of ascertaining how much the service thus to be compensated will amount to during the second half of 1886?

A. By looking at the bill that is presented.

Q. Do you happen to remember what is the amount of that bill that has been presented?

A. No, sir ; I can't tell definitely.

Q. Where can that information be obtained from ?

A. I think it can be obtained in the office.

Q. In the office of the County Clerk ?

A. Yes, sir.

Q. Did you have anything to do with making up the bill ?

A. No, sir ; no more than putting down items. I didn't add up those. I simply put down the items and some of the clerks add it up.

Q. Have you any recollection whatever of the amount of that bill ?

A. No, sir ; I have not, but it can be definitely ascertained.

Q. Will Mr. Ranken know ?

A. I think he will ; I think Mr. Ranken knows exactly.

Q. Will you look at the figures which Mr. Ranken has kindly furnished, and state whether they represent the amount of the bill against the County for the second half of 1886 ?

(Presents statements to witness.)

A. I believe that is correct.

Q. Will you state what the amount is ?

A. \$14,734.04.

Q. That is considerably larger than the entire income to which you have thus far testified, is it not ?

A. Yes, sir.

Q. How much then, according to the figures which we now have, will the net income of the office be swelled to for the year 1886 ?

A. Now, I will have to go into another calculation. I can't tell that. I must show what has been paid out of that for services. We did not have time enough to give you all you have gone over.

Q. You mean to say there are services for which payments have been made outside of the payments shown on this statement ?

A. Beyond those paid—beyond December 31st. We took from January 1st to December 31st.

Q. I wish to keep the year 1886 separate. As I under-

stand, the entire payments made during that year amounted to \$23,674.58?

A. I believe that is correct.

Q. Do you mean to be understood that services had been rendered during that year, which, being paid for within the year, would increase that amount?

A. Yes, sir.

Q. Can you state what addition that would require to be made to that total?

A. Not definitely. I could by examining the books.

Q. Is that a matter which is within Mr. Ranken's knowledge.

A. I don't believe it is. I don't think he got as far as that. It was as much as we could do to get that in the way you have got it. You must give us more time.

Q. Will you be kind enough to see whether these figures are accurate so far as they go, the amount actually received net, during 1886 were these two sums of \$2,080.91 and \$6,859.77?

A. I believe that is correct.

Q. And adding to that this last item of \$14,734.04 makes a total of \$23,674.72, does it not?

A. Possibly that is correct, if you got it down there. Yes, sir, I believe that is correct.

Q. In addition to that, I understand you have testified in answer to the Chairman that bills went over from 1886 against lawyers and others which might aggregate \$2,000?

A. Yes, sir, I couldn't say definitely, but I said \$2,000 might cover that.

Q. And this is all net with the exception of any services which may possibly have been rendered during 1886 and which were not paid for at the end of the year?

A. Yes, sir, those are to be deducted.

Q. Of what character were those services? What is the explanation of the fact that they laid over after 1886, that the payment laid over?

A. Because I did not have the money to pay with in the office.

Q. To whom were these payments due?

A. To copyists in the office, different copyists.

Q. Are there not regular dates at which payments to copyists are made?

A. Yes, sir.

Q. At the end of every week or every two weeks?

A. At the end of every week. Sometimes we don't have enough to pay with and we borrow.

Q. But that deficiency can only be explained, is it not so, by the fact that the County Clerk has drawn out more money than was to be drawn out if the bills were to be paid up?

A. Yes, sir, that is it.

Q. Do you mean that happens?

A. Yes, sir; you will find throughout this account on several occasions that I have to borrow money to make the amount of the pay roll.

Q. Can you not state some sum which will cover this deficiency of payments to copyists at the end of 1886?

A. I could not, sir. I would want to examine the accounts.

Q. Is it a considerable amount, \$100 or \$200 or more than that?

A. More than that, I believe.

Q. Will \$500 cover it?

A. No, sir.

Q. How long will it take to make that exact?

A. Well, I should not think it would take an hour.

Q. Will you oblige the counsel for the Committee, after you shall have left the stand, by ascertaining that amount, so that it may be inserted in your testimony in this connection?

A. I will, sir.

Q. Now I repeat the question which I put to you a little while ago. Do you mean to be understood that the amounts previously stated by you with the addition of this sum of \$14,734.04, less any payment to come from that, cover all the income direct and indirect and of every kind, realized or due from the office during 1886 to the County Clerk personally?

A. Yes, sir; adding to it what we believe the lawyers owed at the first of January.

Q. Is there any other item of which you now think, of which you are informed or which you know which should be added to these figures in order to ascertain the net revenue to the County Clerk?

A. No, sir; no other figures.

Q. In the face of these last figures do you still think it is to the interest of the community to continue this office as a fee office, instead of making a salary for the County Clerk from \$8,500 to \$10,000?

A. Yes, sir.

Q. And only for the reasons to which you have thus far testified?

A. Yes, sir.

Q. The aggregate of these amounts with the addition of the \$2,000 will be \$25,674.72. Is not that so?

A. Yes, sir.

Q. And the only deduction from that is any possible deficiency of payments due to copyists at the end of the year?

A. Yes, sir, and amounts I borrow from time to time from Mr. Ranken. That I will have to take out.

Q. That is what you call an exceptionally bad year, is it?

A. Yes, sir.

Q. What would you call an exceptionally good year?

A. That is regulated by the searching.

Q. I mean in amount; what would you call an exceptionally good year?

A. I only base that on the amount of searching we have at certain times. It depends on the searching.

Q. I want to get at the figures. I want to ascertain what in what you would call an exceptionally good year—in what is exceptionally good by contrast with the showing of an exceptionally bad year—you would regard as the net income of the office?

A. We would want to do a great deal more searching than we did last March and April. I cannot say how much more, but there were many complaints made by the searchers in the office; it was a poor season.

Q. Would you call \$40,000 a good or an average year?

A. That would be excessively good.

Q. Excessively good ?

A. Oh, yes.

Q. I understand—and let us have no misunderstanding about this—that this result of \$25,674.72 for 1886, less the deduction spoken of, is independent of the extra charge for searches about which you have given information ?

A. Yes, sir.

Q. That might amount to \$6,000 or more for 1886 ?

A. Yes, sir.

Q. Is it not a fact that it amounts to a great deal more than \$6,000 ?

A. Well, that I can't say positively. I think I said it might amount to \$10,000. I think I said that.

Q. At \$10,000, that would bring the income for 1886 up to \$35,000 a year ?

A. The County Clerk does not get that. That extra fee the searcher gets.

Q. The point is here whether the community does not in some manner or form pay that.

A. Yes, sir ; the community does.

Q. The community pays that ?

A. Yes, sir.

Q. You think it is desirable for the community that they should go on making that payment as against a salary to the County Clerk ?

A. Yes, sir ; I think so.

By Mr. ARNOLD : Q. I understand Mr. Barnard to say that of these extra charges he gets twenty per cent. and the copyist or searcher gets eighty per cent. ; that one-half at least, and possibly seventy-five per cent. of the searches are extra, requiring extra charge. I would like to have Mr. Barnard inform the Committee, if he can, if there is any book kept in the office of the County Clerk, or any books or papers elsewhere, from which the amount of these extra charges can be answered to a certainty ?

A. There is no book kept. I have the slips of paper for each day that they were written on, which I have in the books ; taken by days. I believe I have a complete list of them.

MR. ARNOLD : How does he ascertain whether the copyist or the searcher makes a fair divide with them ?

A. I will have to give that up (laughter).

By MR. PARSONS : Q. Then what you get is what is called twenty per cent., but whether it is twenty per cent. you don't know ?

A. I believe they are honest.

MR. BACON : Q. Do you not take the cash from the attorney ?

A. Not always.

By MR. PARSONS : Q. Mr. Barnard, does not that extra charge appear upon the search ?

A. The extra charge for searches appears upon the search. The extra charge for copying I don't know anything about. I don't get any percentage on that.

Q. I want to ask you a question or two more about the extra charges for searches; is there not put a memorandum of the amount of the extra charge below the entry of the regular amount which appears upon the search ?

A. No, sir; that is all included ; it is written in this way: "Fees, &c., \$10 or \$15," as the case may be; that includes the extra.

Q. What does the "&c." mean ?

A. That means extra; we know what that means, and you know all about that, Mr. Parsons.

MR. PARSONS : I am one of the unfortunate community.

THE WITNESS : I understand that, sir; your clients.

By MR. BACON : Q. How much do you charge for entering an equity judgment ?

A. Depending on the length of the judgment, the amount of the folios; we are entitled to ten cents a folio; usually a foreclosure decree will amount to fourteen or fifteen folios, and that would be \$1.40 or \$1.50.

MR. PARSONS (resuming): Q. Now make this perfectly clear, this \$25,674.72, or so much of that as is left after paying these deficiencies to copyists, plus the charge for

the extra searches, which may amount to \$10,000 a year, is in addition, is it not, to the payment of all the expenses of the office?

A. Yes, sir.

Q. So that what the community pay under the present system is all the expenses of the office, all the employees, and on top of all that a sum which, for this bad year of 1886, may have amounted to over \$35,000.

A. Yes, sir.

MR. PARSONS : Well, that is all.

BY MR. BACON: Q. Mr. Barnard, how long after the first of January do these copyists remain unpaid?

A. Until the first of February. There are other amounts to come out of this, money I borrowed from Mr. Ranken.

BY MR. ARNOLD: Q. Supposing you wanted a search and you wanted to hasten it and should go to the office, with whom would you negotiate in reference to its being hurried up?

A. Nearly every lawyer that transacts business there has his favorite searcher, with whom he deals, and he makes the best terms possible. That is permissible by the County Clerk. The County Clerk expects nothing. He expects a fair amount of the official fees.

MR. PARSONS (resuming): Q. I wish you would state frankly whether the result of this system of tolerating extra charges is not a continual complaint made by those who must have searches done in the office, that in some manner or other pretty much every search is accompanied by an extra charge?

A. No, sir; it is not a source of continual complaint. It lies with the lawyers entirely. The lawyers neglect to put in their searches when they should, and then their time is limited, and they rush on the searchers and make that arrangement, and they do not complain of the charges they make. Most every lawyer that has a title searched is allowed from three to four weeks in which to make it, and he lets it go, until at the last moment he comes in pell-mell and wants a man to do in an hour's time what we require

almost a day to do, and without the abstracts it could not be done.

Q. All the work which is done is done by the office staff?

A. Yes, sir.

Q. They manage to do it?

A. Yes, sir, and they have to stay there nights to do it.

Q. If I understand it, much of the service is rendered during the regular office hours of the day?

A. Yes, sir, and much more is done in the night time. There is scarcely a night you will not find that office lighted up and these men doing the work which might be done, if the lawyers put in their searches, in the day time.

Q. If the rule of the office were that anything in the nature of extra work must be done at extra hours, how long would it then take to have a search go through the regular form without extra charge?

A. As I say, about twelve or fourteen days. We make no difference about that because these people who do the extra searches in office hours help get out the regular searches; they turn on that to keep the work down within some reasonable time.

Q. What do you mean by saying you make no difference about that. That is to say, that you always keep the searches ten or fourteen days without reference to whether they can be finished in a shorter time or not?

A. There may be a great amount of searches on hand, and some searcher is willing to come there and work on that so as to have it ready for the man without paying the extra fee. Many lawyers come in and say they cannot afford to pay the extra fee on that and in some way the searcher does the search for him. Every search that comes in is stamped according to the date, and that is taken out and done for him.

MR. PARSONS : We in this part of the State understand the business better perhaps than some of the Committee, and therefore I abstain from asking information which the members may possibly desire. I will ask any question the Committee desires.

MR. ARNOLD : I have no other question except this.

How does this extra fee compare with the regular statutory fee ?

A. It is less than the regular statutory fee.

Q. But it is in addition to it ?

A. Yes, sir.

By MR. PARSONS : Q. Sometimes it is very much more ?

A. Yes, sir, some times.

John M. Ranken, sworn by the Chairman.

THE WITNESS : I would like to state to the Committee that I am a layman, and Mr. Barnard, my predecessor, on the stand, is a lawyer ; I would like to ask the Committee if at any time during the examination I should feel as though I would require counsel if it would be allowed.

MR. PARSONS : I suggest to Mr. Ranken and also to the Committee, whether it is not better to reserve that question until we ascertain whether the necessity for answering it arises.

MR. COLE : When Mr. Ranken asks for it, it will be time enough to consider it.

By MR. PARSONS : Q. Mr. Ranken, when were you elected County Clerk of Kings County ?

A. In November, 1885.

Q. Were you at that time engaged in regular business ?

A. No, sir.

Q. Have you at any time had a regular business ?

A. Not in three years.

Q. While you were in business what was its nature ?

A. My father was quite a real estate owner in this city, and I acted as his agent.

Q. As I understand, then, for the last three or four years you have not been engaged in any business ?

A. Only so far as I was interested in a little real estate which I gave my personal attention to.

A. Have you been present during the examination of Mr. Barnard ?

A. A greater part of the time, yes, sir.

Q. Did you hear his statement to the effect that you, with the aid of some of your assistants, had been occupied in obtaining information under the subpoena which the Committee caused to be served upon you?

A. I did.

Q. Is it a fact that you have been engaged since the service of the subpoena in getting together such information?

A. Yes, sir.

Q. Are you able to speak with accuracy about any of the figures to which Mr. Barnard testified? A Yes, sir; I think they are a perfect copy of the book that he presented here.

Q. Is that the extent of your ability to prove the accuracy of those figures, that they correspond with the book which was produced by Mr. Barnard?

A. The figures themselves are accurate. The totals I cannot testify about, because I did not foot up the columns.

Q. Who did foot up the columns?

A. Mr. Frank Barnard and my son who has been in the office.

Q. Is there any doubt about the accuracy of the sum of \$6,859.77, which Mr. Barnard stated to have been received by you from the County for the first half of 1886?

A. No, sir; that money I received in August.

Q. Is there any doubt about the accuracy of the \$14,734.04, to which Mr. Barnard testified, as the amount of the bill rendered by you to the County for services during the latter part of 1886?

A. That is correct.

Q. Has that account been paid?

A. Yes, sir.

Q. When was it paid?

A. About ten days ago. Possibly two weeks.

Q. Aside then from the revenue which came from other sources, did you receive net from the County for County Clerk's charges made to it during 1886, \$21,593.81?

A. No, sir.

Q. Is not that the sum of those two sums, \$6,859.77 and \$14,734.04?

MR. GREENE: You asked net. He stated there was something to come out of the \$14,000.

MR. PARSONS: I think that what was to come out was payments in the office, not applicable to that figure but applicable to the copyists' charges.

A. The amount I received from the County during the year 1886 was \$6,859.77. The difference between that and \$8,590.45 I received from Mr. Barnard direct as a surplus taken in at the desk.

Q. I think you and I are talking about different things. I am asking your attention now only to charges made during the year 1886 by your office to the County. Do not those charges amount to the sum given, the sum of \$6,859.77 and \$14,734.04, making a total of \$21,593.81?

A. Yes, sir, but I misunderstood you, for the \$14,000 I did not receive during 1886. I received that since the first of January.

Q. But was it not received for services up to the 31st of December, 1886?

A. Yes, sir, it was up to and including that.

Q. Is it not a fact that these charges are running right straight along during 1887?

A. Yes, sir, whatever County work we do at the office beyond doubt is a County charge.

Q. Did you hear the suggestion made by Judge Green a little while ago, I will ask you, then in reference to that, whether against this \$21,593.81 of 1886, or for charges during that year, there is any offset?

A. Yes, sir, at different times during the year I have had to advance money from my own pocket to keep up our pay roll. And if I am not mistaken the office owes me now in the neighborhood of \$1,500. A little over.

Q. But the pay roll was paid out of the receipts of the office, other than from the County, was it not?

A. Yes, sir; but at times our pay rolls have been short.

Q. But does not that equalize itself in the end?

A. I simply draw the surplus.

Q. Does not that statement show that instead of an overpayment by you, there was a surplus during 1886 of \$2,080.91.

A. Yes, sir.

Q. Then come back to the question whether against this \$21,593.81 charged to the County there is any counter charges or offsets?

A. No, sir.

Q. Are you able to inform the Committee to what amount this extra charge for searches, about which Mr. Barnard has testified to, what it did amount to during the year 1886?

A. No, sir, I cannot. Mr. Barnard has full charge of the book.

Q. Do you feel satisfied in your own mind that \$10,000 covered that amount for 1886?

A. I can't say.

Q. Is there any amount which you can state, with any absolute positiveness, as the limit of that extra charge for 1886?

A. For searching?

Q. On searches?

A. No, sir; I cannot. The searching is something I have no knowledge of.

Q. Do you not put any restraint upon the searchers in respect to this charge. Do you leave them to make any bargain they like?

A. As I understand it, the searchers' fees are governed by law; and whatever extra search is done is a matter between the searcher and the party having the work done.

Q. Do you permit the searchers to make any charges they like without any control by yourself?

A. I do, for this reason, that I have understood since I took office that the charges are less than the legal fees.

Q. You mean that the extra charges are less than the legal fees, or that the aggregate makes less than the legal fees?

A. Each separate search, as I understand, extra; the searcher charges less than the legal fees.

Q. I wish you would explain that. I do not quite understand that. What exactly do you mean?

A. I mean in this way: My searcher is paid so much a day, and his office hours are from nine until four o'clock; after that he makes terms with a party desiring a search on his own terms, whatever is agreeable to both, and that is something I have no control of after four o'clock.

Q. Are not these searches issued over your County Clerk's certificate and upon your responsibility?

A. Yes, sir.

Q. And these searchers who make this extra charge, as I understand, belong to the regular staff of your office?

A. Yes, sir.

Q. They hold their positions by your appointment?

A. Yes, sir.

Q. Now come back to the amount of these extra charges. Is it a fact that there is a statute which regulates the rates for making searches?

A. So I have understood yet I have no personal knowledge of it.

Q. Don't you know what the regular fees are?

A. No, sir; I do not.

Q. Have you never inquired?

A. Never inquired.

Q. Are you then, or are you not, able to tell the committee whether this extra charge is greater or less than what the law permits?

A. I couldn't say; I don't know.

Q. As I understand it you neither know what the extra charge amounts to nor what the law permits as a legal charge?

A. That is it exactly.

Q. Are there to your knowledge any records, any books, any papers in your office which will with any certainty inform the Committee what was the total amount of moneys which came into the office during the year 1886, or for service during that year?

A. Yes, sir; this book here. The only one I have any knowledge of.

Q. Do you think that shows with any accuracy what the receipts were?

A. I think I will have to correct that. Mr. Barnard has a book in which county charges are made in addition to this one. If I am not mistaken he stated so on the stand.

Q. Does either of those books undertake to put down these extra charges on searches?

A. When searches are paid in the cash account is entered in this book.

Q. The total, or the assumed-to-be, legal amount?

A. What the office is entitled to. The extras are paid to the searchers, and there is no record kept of that that I know of.

Q. What have you to say on the question whether there is any means of ascertaining what was the total revenue of the office during the year 1886?

A. With the exception of extra searches there is the book the searchers keep themselves, in which every search is entered, with the legal fee and the extras, but that is something, until the legal fee is entered in this book, that we have nothing to do with. It is under the charge of Mr. Barnard, and the searchers make their entries.

Q. How can the accuracy of the figures in that book be verified? The entries in that book, as I understand, are not original entries; they are taken from a slate?

A. Every dollar down to ten cents received over the desk is entered on the slate at the time it is received. That slate is made up every day, and the entries in this book are made from that slate previous to closing the office every day.

Q. Then does it not come to this, that the accuracy of that book depends first upon the question whether all the receipts went upon the slate; and second, upon the further question whether all the entries upon the slate were transcribed into the book?

A. Yes, sir.

Q. And whether either of those two things occurred or not you have no means of knowing?

A. Except such days as I have seen Mr. Barnard make up the slate and make the entry.

Q. Does that often or rarely happen?

Q. I am at the office almost every day in the week, and perhaps at least five days out of seven I am present when the slate is made up.

Q. At the close of the day?

A. Yes, sir.

Q. What are your regular hours for being at the office?

A. I have no regular hours. I generally endeavor to get there about ten o'clock, and remain sometimes until two or three, and longer perhaps, until the close of the office.

Q. If this book is made up after the close of the office, which I understand is at four o'clock in the afternoon, what explains your being there at that time?

A. As much as anything to kill time. I have nothing else to do.

Q. I thought perhaps you returned to the office after leaving it, so as to be at the office at the close of the day?

A. No, sir; this book is generally made up perhaps fifteen minutes before the office closes. If Mr. Barnard is busy, it is not made up until after four o'clock.

Q. During your time has the staff of the office been adequate to the discharge of the duties of the office?

A. Yes, sir.

Q. Is Mr. Barnard an efficient deputy. I assume that he is?

A. I simply govern myself in this way: He has been the deputy under several of the County Clerks, and he has been familiar with the duties of the office for twenty years and more.

Q. Does it come to this, that without any personal co-operation by you all the duties may be discharged by Mr. Barnard and his deputies and his subordinates?

A. Yes, sir; beyond doubt. I will make an exception; there is but one man that I know of that can fill Mr. Barnard's place, and that is Mr. Tredwell.

Q. So that I assume what services you personally render

are accidental, and because you happen to be there killing time, as you express it?

A. I feel it my duty to do all in my power in the office. I am not a lawyer, and you are a lawyer, and you know that most of our business is Court business and it requires a lawyer to transact that.

Q. During the time you have been in office have you considered this subject which apparently has been agitating the public mind, and has been before the Legislature, of changing the fee system by which your office is now regulated to a system under which the County Clerk would receive a fixed official salary?

A. No, sir.

Q. Are you aware that that subject has been agitated?

A. I am, sir.

Q. I think the Committee would like to know what your views are on the subject of that proposed change?

A. As I understand it, there it is a constitutional provision which prevents any change during my term of office so I never gave it any consideration.

Q. That may be very well, so far as the profits are concerned and considering your term; but the Legislature will perhaps deal with the subject in a broader way, and I would like to know what your views are. Take the case of your successor?

A. That would depend on circumstances.

Q. Won't you state the considerations which are in your mind bearing upon that subject?

A. I govern myself by the Register's Office in New York City, which was made a paid office on the 1st of January. I understand they ran \$20,000 short this year. I have it from good authority; that is the Deputy Register. The amount appropriated is not sufficient to cover what will be the running expenses of the office.

Q. Is not the suitable contrast, the complaints as to fees under one system and under the other—have you any information which is the greater, under the fee or the salary system in the case of the Register's Office of New York?

A. No, sir, I have no information.

Q. Take the case of the County Clerk's Office of Kings

County. What considerations are in your mind bearing upon that subject—the change from a fee to a salaried office?

A. It would depend on the circumstances. If the present force of the office were paid and simply allowed to work from nine until four o'clock, the office would entirely run behind because they would not be able to keep the work up.

Q. How would it affect the County Clerk personally?

A. That would depend on the salary.

Q. Assume the salary to be \$10,000, to be paid by the community. That would contrast with, perhaps, \$35,000, paid by the community in 1886, under the present system, would it not?

A. Yes, sir.

Q. Don't you think it is desirable that the community should be relieved from this heavy burden and that the compensation should be brought down say to \$10,000?

A. It might be a good idea.

Q. Don't you think \$10,000 a year would give to the community the services of an efficient and competent County Clerk?

A. Well, I don't know as I am able to judge.

Q. Would not half that amount, half of \$10,000?

A. Not if he devoted his entire time to it.

Q. Did you ever know a County Clerk who did devote his entire time to his office?

A. I can't say; I didn't know anything about it prior to my holding office.

Q. I understand all the duties of your office are discharged without your active participation and without your assistance?

A. If I was not there Mr. Barnard could not attend to all the duties of the desk; what assistance I give him relieves him.

Q. What becomes of this sum which is received personally by the County Clerk, and which for the year 1886 may have amounted to over \$36,000?

A. If you will be kind enough to change that amount I will answer it.

Q. To what amount will I change it?

A. From the figures which I have received from the time of my taking possession of the office up to date—\$24,244.49 that went into my pocket.

Q. That was paid over to you?

A. Yes, sir.

Q. For 1886?

A. Well, if you include the last County bill.

Q. Why should not that be included?

A. I did not receive that money till 1886.

Q. I was careful to frame my question so as to make it the question of amounts earned by the office during 1886, irrespective of the time when your bill against the county for the last half of the year was paid?

A. That is the total amount I received from the first of January, 1886, up to the present time—\$23,244.49.

Q. Is that all applicable to services that were rendered during 1886?

A. Yes, sir.

Q. And does that omit what amount was due from lawyers and others at the close of the year?

A. Unless there might be some small bills; might, possibly have been paid after the first of January, which are entered in this book.

Q. But if so, you have not added them to your figures?

A. No, sir.

Q. Whatever the amount stood at on the 31st of December, 1886, is to be added to the sum you have stated?

A. Something like \$500 less; that is all. I drew a little over \$500 from the office; with that exception, it is included in this statement.

Q. Will you oblige me by informing the Committee what becomes of this enormous sum of money?

A. Yes, sir; I put it in my pocket.

Q. And then?

A. Well, gentlemen, I would like to get the opinion of this Commission on that; I understand this is an investigation into crimes and irregularities alleged to have been committed in the County of Kings. I am not aware that

any irregularities are charged in my office and I decline to answer unless the Commission so rule.

MR. PARSONS: Before raising any question with the Committee, will you permit me to ask another question or two—

BY MR. ARNOLD: Q. Before you go further on that subject, will you let the Committee know whether this is the net amount received for services rendered in 1886?

A. Yes, sir.

MR. GOODRICH: Q. What was the total amount of the net receipts for 1886 did you say?

A. \$23,244.49.

MR. PARSONS (resuming): Q. Mr. Ranken, when was the subpoena of the Committee served upon you?

A. I think on Thursday morning—no, Wednesday morning.

Q. And upon the subpoena was there a statement that among other subjects upon which you would be examined was that of the disposition of the fees of your office, showing particularly the net amount retained and what becomes of the residue?

A. Yes, sir.

Q. Have you put together such information as is within your power bearing upon that particular subject of the inquiry?

A. Yes, sir.

Q. Is it that information that you are unwilling to communicate?

A. Yes, sir; unless the Commission so rule. If they decide I must answer I will do so willingly.

Q. Before pressing the question, I wish to know upon what ground do you object to answering?

A. Because, as I stated, there are no irregularities charged against my office, and this inquiry, as I understand, is to find out whether crimes and irregularities have been committed.

Q. Is that the only ground of objection that you raise?

A. Yes, sir.

MR. PARSONS : It does not seem to me that the counsel who the Committee have honored with its employment are required to discuss questions of this kind. I assume the Committee who are conducting the investigation will dispose of questions which may arise, only calling upon counsel for suggestions when they desire to receive them. If the Committee will permit this to be said, I will venture to state that assuming that any privilege was due to Mr. Ranken or to any witness under examination, certainly the only ground upon which Mr. Ranken declined to answer is entirely untenable. It is not necessary to assume that any department of the city or county government is charged with crime, or is charged with irregularity. This is an investigating committee. It is for the purpose of ascertaining whether such a case exists that the inquiry is being conducted.

MR. ARNOLD : Will you kindly read to the Committee the closing portion of this resolution if you have a copy of it ; the last paragraph.

MR. PARSONS : Yes, sir. I think if the Committee will pardon me I ought to read the resolution complete so that you may see the connection.

“ Resolved, that a Committee of five be appointed by the Speaker, and they are hereby authorized and requested to make an investigation into the administration of every department of government in the City of Brooklyn and County of Kings; and that they report to this Assembly, to the end that this House may know whether the crimes and irregularities alleged to have been committed in the said Departments of the City of Brooklyn and County of Kings really exist.”

I omit something which is immaterial to this question.

“ Resolved, further, that said Committee is hereby authorized, directed and empowered to make an investigation into the administration of the local government, the common council and every department, civil, criminal and judicial of the government of the City of Brooklyn and County of Kings ; said Committee shall be authorized to send for books, papers and persons.”

MR. BACON: The Committee are of the opinion that the witness should answer.

JUDGE GREENE: I desire to state that while that is the majority decision of the Committee, that from the charges made when this Committee was appointed and from what is contained in your resolutions as the ground work, and that no intimation of over-payment of salaries or excessive salaries are the subject of investigation, or the disposition of it, that this whole examination so far has been outside of the original purpose as stated when this Committee was appointed. Yet I acquiesce in the decision of the Chairman that the fullest investigation may be had.

MR. PARSONS (resuming). Q. Before proceeding to examine you in detail upon this subject, Mr. Ranken, I will request you, in your own way, to state generally what becomes of this sum, which for 1886 you yourself state exceeds in net amount \$23,000?

A. That I consider money belonging to me as County Clerk. I put it in my pocket, and I use it for whatever I see fit, to support my family, for instance, to deposit money in the savings bank if I so wish. But nobody outside of myself receives a dollar of the fees after the expenses are paid except myself and my immediate family, except what investments I see fit to make. I have the sole possession of whatever balances there are after the running expenses of the office are paid. Nor has it been intimated to me that I should appropriate any part of the receipts to any living man, either in Kings County or anywhere else.

Q. Do you mean to be understood that this entire sum is either applied by you to the use of your family, or is invested by you for your personal benefit?

A. I wish to have it inferred that the money as turned over to me as County Clerk comes into my possession, and my possession only, for such purposes as I may see fit to put it to.

Q. Are you unwilling to state what are the uses to

which you see fit to put this amount which comes to you from the office?

A. No, sir, I am not.

Q. Then will you oblige me by doing so?

A. I cannot go into details on a sum of money like that. For instance, I deposited my last check in the First National Bank, and I may see fit to allow it to remain there for an investment. Part of that money will go to the support of my family, and certain expenses which any man might possibly have. But myself and family are the only ones directly interested in any of the receipts of the County Clerk's office.

Q. Is any account kept by you of this large sum of money?

A. Not as a separate account; no, sir. I have my personal account at the First National Bank of Brooklyn. The money I receive from the County Clerk's Office, with a small income I have outside, are merged in one and drawn from in that way.

Q. As I understand, the first payment received by you in your position as County Clerk and received by you personally was in March, 1886?

A. I think about that time.

Q. Between that date and February, 1887, a period of about 11 months, there came into your possession net over \$23,000?

A. Yes, sir.

Q. All of that sum of money has been disposed of in some way, has it not?

A. Yes, sir.

Q. And have you any means of showing item by item and day by day where it has gone, what has become of it?

A. The greater part, but to do that I will have to go and bring my personal bank account here and show my expenses. I don't know anything about it of course.

Q. You don't know anything about what?

A. About whether I would be compelled to bring my personal account to show what my living expenses were, and what it cost me to pay my servant bill, and what my taxes

are, and what certain repairs amount to; it is not connected with the office.

Q. I go back to my question, which is, whether you have not the means of stating item by item the disposition which during this period of something like eleven months, has been made of this large sum of money that was received by you?

A. Yes, sir; I have.

Q. You have?

A. Yes, sir; by bringing my personal check-book here; not otherwise; some of these payment were by check, and those I have a record of.

Q. Is it a fact that this entire amount has gone to your credit in the bank?

A. Yes, sir.

Q. In what bank?

A. The First National Bank of Brooklyn.

Q. I understand this to mean that you deposited your moneys, that you have actually deposited this entire sum to your credit in the First National Bank of Brooklyn?

A. With the exception, perhaps, of a few dollars; substantially I have, yes, sir.

Q. I very gladly take your word for it, that when you say a few dollars you mean an inconsiderable sum?

A. Beyond doubt; for instance the check I received a year ago, the check I received last January, I think I put \$100 in addition to that; the check I received in January I deposited it as I received it.

Q. How long would it take you to make up a statement exact, giving the dates and amounts paid by you out of this sum so as to separate such amounts as may have been used for family expenses and show what was done with the residue?

A. It might possibly take me a couple of hours.

Q. Have you done so since the subpoena of the Committee?

A. No, sir, I have not. I thought when I received the money from the office it was my personal property, and I did not know that this Committee would make any inquiries of that kind.

Q. Where is your check book ?

A. Home. I will say now that I keep my bank account just as I did before I became County Clerk, using the same check book and the same bank book until it is completed, and I can produce them all if necessary.

Q. Will your check books show the uses made of this money ?

A. Yes, sir.

Q. The parties who received it, and what for ?

A. Yes, sir ; with the balance that still remains in the bank.

MR. PARSONS : May I suggest to the Chairman, that it will save time, and give us information which is much more exact for the examination of Mr. Ranken, if we ask him to make such a statement.

THE WITNESS : It will be impossible for me to do that to-day.

MR. PARSONS : If you are excused now, can you not do that and come back again to-day ?

THE WITNESS : No, I cannot do it and come back to-day ; I am connected with the National Guard, and I have duties to attend to that will occupy me until a late hour.

MR. PARSONS : Can you not do that and be here to-morrow ?

THE WITNESS : Yes, sir ; but it seems to me, Mr. Parsons, that this investigation is going into matters not connected with my office. If this Commission decides that I must produce those books, I naturally must do it. But I am here to answer any and all questions, and to speak truthfully, and any information I can give you I will do ; yet to answer questions going into my private account and my private matters, according to my way of reasoning, is something I do not think the Committee have any power to call upon me to do. If this Committee decide that I must do it, I of course must do it. It is nothing I am averse to at all, except for the reason I suggest.

MR. PARSONS : I will ask you between now and the sit-

ting of the Committee to-morrow to make up such a statement as has been suggested ; and I will ask you to reserve till then the question whether you shall be required to give the information, if you will be able to answer the question, if the committee think that I should.

THE WITNESS: Before doing so, I would like to have this Committee decide that I must.

MR. PARSONS: Then we will put upon the record a question.

BY MR. COLE: Q. You say you are not averse to it, but that it will be inconvenient?

A. No, sir; it is not the inconvenience; it is simply a matter that I do not think the Commission has any power to go into my private accounts. I have no objection on other grounds; there is nothing in my accounts that I wish to conceal.

Q. There is nothing in your accounts that you wish to conceal?

A. No, sir; I can produce my bank book and my check book, if the Committee decide so. I have nothing to conceal, and have tried to conduct the office in a manner open and above board. My reputation is, I think, that of a man able to bear investigation, I have resided in Brooklyn all my life.

BY MR. PARSONS: Q. The question that counsel will put upon the record is this: we ask you between now and the sitting of the Committee to-morrow to make up a statement which will show the dates when there came to you, and the items which did come to you at these respective dates, making up the correct net sum to which you have testified, and which will also show what use has been made by you of that amount; begin by giving the dates and items, and discriminating amounts which have been applied by you to family use, to permanent investment, and to other purposes; and particularly a statement which will show what amounts, if any, have been used in such way as did not imply a return to yourself of any thing in the shape of value; and let me state that what the counsel

wish is to ascertain how much of this amount has gone for political, or public or any such purposes.

A. I will say right here: Unless the Commission insist on my doing it, I shall decline. If they direct me to do so, I shall certainly do it. As I said before, I have nothing to conceal.

THE CHAIRMAN: I understand the Committee are unanimous in requiring it.

MR. GREENE: I do not concur. I do concur, so far as relating to public uses. So far as it relates to the private account, I desire to be recorded as not acquiescing.

MR. CUTLER: I do not concur. I do not believe it to be within the province of the Committee to go into the private accounts of the County Clerk.

MR. COLE: I think you will find the majority of the Committee to be of that opinion.

THE CHAIRMAN: I understood it to be as I first stated. I supposed the entire Committee concurred.

MR. ARNOLD: I understood a while ago that there was a majority for it; but it appears there is not.

MR. PARSONS: Perhaps a suggestion of counsel will enable the Committee to come to a unanimous opinion upon this subject, which counsel regard as one of the last importance. Counsel have no complaint to make of the candor and frankness of Mr. Ranken. They have no distrust of his willingness to furnish the information desired if the Committee require. Counsel certainly have no wish to know anything about the mode in which Mr. Ranken uses so much of this money as he applies to family purposes. But they do think that there should be known how much of this money goes for purposes which do not personally concern Mr. Ranken, and they appreciate that it is impossible to learn that with absolute accuracy unless Mr. Ranken is prepared with a complete statement, so that the counsel may be aided in ascertaining how much of the total amount remains for such purposes as they desire to inquire about.

THE WITNESS : If you will put that in the form of a question, I will answer it ; put the question to me direct.

MR. PARSONS : We prefer that you shall bring a complete statement here, and that it shall be accompanied with your check book, so that if necessary you can refer to it.

THE WITNESS : I will do so if I am so ordered.

THE CHAIRMAN : That is the judgment of the committee.

MR. PARSONS : Then we will suspend Mr. Ranken's examination at this point and call another witness.

(The examination of Mr. Ranken was then suspended, and Mr. William H. Murtha, Register of Deeds of Kings County, was called to the stand.)

William H. Murtha, being duly affirmed as a witness, testifies as follows :

BY MR. PARSONS : Q. Senator Murtha, are you Register of Deeds for this County ?

A. I am.

Q. When did you enter upon your office ?

A. The 2d of January, 1886.

Q. When were you elected to the office ?

A. November 18, 1885.

Q. What familiarity or personal knowledge have you of the transaction of the business from which to inform the Committee of its receipts, and of the manner in which the work is done, the sources from which the income comes, and the net amount which remains ?

A. Well, as that question involves considerable detail, I would like to have the chairman read the subpoena, under which I am here, in full, so I can understand the scope and object of this inquiry.

Q. Have you the subpoena served upon you ?

A. I think I have, yes, sir.

Q. Will you kindly produce it ?

(Witness produces subpoena and hands it to counsel.)

Q. When was this received by you, Senator Murtha?

A. Day before yesterday, in the afternoon. (March 2, 1887).

Q. Was it read by you? A. I read it since receiving it.

Q. Was your attention called to the point that it directed you to bring before the Committee all books containing names of employees, statements of or references to salaries, accounts of or references to all fees and other moneys received by you or by your Office of Register, or of or to any and all disbursements of such office?

A. The reason I asked to have that read is the last section; to know whether there are any irregularities charged against the office primarily, and if there are, whether I would be entitled to appear by counsel at any stage of this investigation. I desire to have an answer from the Committee to that question, and then I can go along intelligently.

Q. What you wish me to read from the subpoena is what?

A. The last section of the resolution; the entire resolution, as I understand it. If I am to answer questions as to any irregularity as contained in that subpoena, then I know just exactly what I am to meet in this investigation; and if so, then I would desire to know whether I can appear by counsel?

Q. Will you look at the subpoena and call attention to the passage which you desire me to read?

A. The last section of the last resolution. I will read it myself if you desire.

MR. PARSONS: Certainly.

THE WITNESS (Reading): "Resolved that said committee is hereby authorized, directed and empowered to make an investigation into the administration of the local government, common council and every department, civil, criminal and judicial, of the government of the City of Brooklyn and County of Kings, and that they report to

this Assembly by a bill, or otherwise, to the end that the Legislature may know whether the crimes, misdemeanors and irregularities alleged to have been committed in the said departments of the City of Brooklyn and County of Kings really exist, and that early and efficient legislation may be had to prevent the repetition of irregularities and punish crimes ; said committee shall be authorized to send for books, papers and persons, and employ counsel and a stenographer, and incur such other expenses as they may deem necessary, including the employment of an expert accountant for the use of the committee ; and said committee is authorized to hold their meetings in such place, or places," &c.

Now, in conformity with that resolution, if the office is charged with any irregularity, I simply desire to know now. If it is not, then I will understand the line of investigation.

Q. Have you any objection that your office shall be investigated, Senator Murtha ?

A. Not the slightest, no, sir. But I simply wish now, at this stage, to understand by the ruling of the Committee if at any stage I can appear by counsel.

Q. Is that the whole point of your objection ?

A. That is the whole point.

Q. To ascertain whether you are entitled to appear by counsel, if you so elect ?

A. If I so elect ; yes, sir. When the committee decide that matter, I am in a position to answer.

Q. May I inquire whether your point is a wish to be represented by counsel during all and every part of your examination, or only in the event that your examination shall touch upon certain of the subjects mentioned in the resolution.

A. My desire is, that at any subsequent stage of the investigation, if the Committee, in the investigation of my office, pursue subjects in which I deem it essential to have counsel, I only desire to know whether I can or cannot have that privilege.

Q. I ask you whether it may or may not be better, Senator Murtha, to wait until you see whether that emergency arises ? It may not.

A. If it does not, and the Committee so rule, it does no harm for me to know where I stand in the inception of this investigation, so far as that matter is concerned. I am simply subject to their ruling, whatever that may decide.

THE CHAIRMAN: We are of the opinion that this is not a trial wherein the witnesses are to be represented by counsel, unless some unforeseen occurrence should arise which might require it.

THE WITNESS: I am ready, Mr. Parsons.

Q. Will you then kindly oblige the counsel by answering the question that was put, whether your attention was called to the passage of the subpoena which I read?

A. This one, sir?

Q. That in manuscript?

A. Yes, sir.

Q. Was there upon your subpoena an indorsement requesting you to inform yourself as particularly as was possible about dates, figures and all details: 1. Amount of fees, after deducting all expenses of office. 2. Disposition of such amount, showing particularly net amount retained and what becomes of the residue. 3. Names of all persons, if any, who received pay when doing regular or continuous work?

A. That is upon the back of the subpoena.

Q. And did you observe it?

A. Yes, sir.

Q. And regard it when the subpoena was received by you?

A. Yes, sir.

Q. Senator Murtha, what have you done in the way of preparation to give this information to the Committee?

A. I have extracts, taken from my cash book that is kept in the office, of the daily receipts and expenses.

Q. And is that information here?

A. I have an extract from the books in my possession, yes, sir.

Q. Were you in any way related to the office of Register of Deeds before being elected to that position?

A. No, sir.

Q. So that you went there as a stranger? That is, you went there without any exact knowledge about the office?

A. No technical knowledge.

Q. Have you an outside business, Senator Murtha?

A. I have.

Q. You have an extensive business of your own, have you not, Senator Murtha?

A. I have, but I don't give it my individual attention as I formerly did.

Q. What is your business?

A. Coal.

Q. Is the office a fee office?

A. It is.

Q. Of whom does the office and staff consist?

A. Deputy Register, Assistant to the Deputy——

Q. Have you a list of the names?

A. I can give them from memory.

Q. I think it would be well to take it from the list.

A. Deputy Register, William Barry; Assistant, Francis Doyle; Index Clerk, Edward Murphy; General Index Clerk, William Russell; Searchers, Frank Jenks, M. E. Finnigan; George H. Pettitt and William H. Campbell, Jr. About twenty-two copyists.

Q. Does that complete the list?

A. And a messenger.

Q. Does that complete the office staff?

A. I believe it does.

Q. Were changes made in the office staff contemporaneously with your becoming Register?

A. To some extent.

Q. To what extent?

A. Appointment of a Deputy, and many of the copyists were changed.

Q. By the deputy do you mean Mr. Barry?

A. Mr. Barry.

Q. Who preceded him?

A. I do not know.

Q. Who was your predecessor as Register?

A. Mr. Samuel Richards.

Q. How long was he the Register?

A. Three years.

Q. Do you not know who was his deputy ?

A. I do not of my own knowledge.

Q. What is the rule with reference to appointments to those positions; are they for periods of time or at the will of the Register or what are the facts ?

A. The Deputy Register, as I understand the law, in conformity with the statute, during the term of the Register, unless removed for cause. The statute authorizes him to act in the capacity of the Register by reason of death, resignation or removal, until the election succeeding, which would provide a successor.

Q. Senator Murtha, which of these offices become vacant by the fact that one Register goes out of office and is succeeded by another. Do they all become vacant ?

A. All, as a matter of fact, as I construe it.

BY MR. GOODRICH : Q. As a matter of law, you mean, instead of as a matter of fact ?

A. As a matter of law.

BY MR. PARSONS : Q. Is what you mean to say that practically the whole office staff is changed, or that, according to the law, there is a right to change the whole office staff ?

A. As I understand, according to law, there is the right.

Q. But is it the case that practically there is made an entire change in the office staff ?

A. It is not.

Q. Is Mr. Barry the gentleman who has for so many years been connected at one time or another with the office ?

A. He is.

Q. And is he very competent for the discharge of his duties ?

A. I assume him so—eminently competent.

Q. Has he not had a very large experience in the performance of those duties ?

A. I believe he has ?

Q. When did you make the appointment of Mr. Barry as your principal assistant or deputy ?

A. I gave him his written appointment on the second day of January, 1886.

Q. So that he entered upon the duties of assistant contemporaneously with your becoming Register?

A. He did.

Q. And by an appointment made prior to that time?

A. Yes, sir.

Q. What other offices were changed by the appointment by you of successors to those previously holding the office?

A. Messenger and collector and several of the copyists.

Q. Are those all?

A. Those are all.

Q. Why were the copyists changed?

A. Primarily because I had the desire to employ men whom I personally knew, and many of the men in the office when I went there I did not know doing that work.

Q. Did this wish proceed upon any opinion or impression on your part that the men previously holding the position were incompetent for these duties?

A. No, not primarily.

Q. Did that at all bear upon the subject?

A. In some instances it did.

Q. Have you any objection to state what were the motives which prompted the changes made by you in other cases? I mean in cases where the previous appointees were competent?

A. I have no objection.

Q. Then be kind enough to state why you made such changes?

A. But I can't recall the reasons why I made many of them now. I took them up at the time and made the changes. I made no entry of it, and have no recollection definitely of it, except upon the broad fact that I wanted to make the office as efficient as possible, and the men that I employed I thought would produce the result.

Q. How do you know that those men were better than their predecessors, if there was no complaint of their predecessors, and if, as you say, they were competent men?

A. Many of them had been employed in the office pre-

viously, and had acquired experience, and my predecessor discharged them, and I reinstated them.

Q. Are you able to inform the Committee whether it has been the mode of the Register's Office that when a new Register has come into the position it has usually followed that there have been extensive changes made in the personnel of the office?

A. I cannot.

Q. I understood you to say just now that your predecessor made changes at the beginning of his term; is that so?

A. You don't understand me, sir. You understand me that I employ some copyists in the office that had been discharged by my predecessor and that I reinstated them.

Q. When had they been discharged by your predecessor?

A. When he assumed his duties, I suppose.

Q. Who was your predecessor?

A. Mr. Samuel Richards.

Q. I don't like to be unduly ignorant, but I think I must venture to ask whether he and you were of the same political affiliation?

A. Nominally we were not.

Q. I think that everybody will be interested to know, Senator Murtha, wherein is the significance of that expression which you so carefully used, "Nominally we were not." What does that mean?

A. It means that Mr. Richards' friends claimed that he was elected by Democrats, and I am a Democrat.

Q. Did he have an opponent?

A. He did.

Q. Was his opponent a Republican?

A. He was a Democrat.

Q. Then were there two Democrats running against each other at the same election?

A. The electors were elected against each other apparently in their selection.

Q. Seriously, Mr. Richards was running as a Republican, was he not?

A. He was.

Q. Then he made changes, and you, as a Democrat, when you became elected, made changes again?

A. I have made changes to add to the efficiency of the office. There have been minor changes that I know of. The others I knew nothing about.

Q. I wish to ask you a general question, which I am going to let you answer in your own way, coming within the purview of your last suggestion that was endorsed upon your subpoena: I want to know whether in the Register's Office persons receive pay without reference to the work they do?

A. I can answer that very emphatically.

Q. I don't care about the emphasis, but I want the fact.

A. The fact is that I never paid a man a dollar that did not do a dollar's worth of work.

Q. You mean that you as Register have not done so?

A. Yes, sir.

Q. Then are we to understand that all of your copyists are actual copyists?

A. You are so to understand.

Q. And only receive pay for the work which they do?

A. Yes, sir.

Q. Are they paid by the folio, or do they receive a per diem?

A. They are paid by folios.

Q. Do you remember the amount?

A. Not accurately; I think it aggregates about eighteen cents per page.

Q. Are they paid at the expense of the Register's Office?

A. They are paid out of the receipts of the Register's Office.

Q. And receive no compensation, of which you know, outside of that?

A. Not that I am aware of.

Q. What does their copying embrace?

A. Deeds, mortgages, satisfactions of mortgages, powers of attorney, wills, and all the legal instruments required by the statutes to be filed in the Register's Office.

Q. Does this copying mean transcribing them into the record books?

A. It does.

Q. Does that copying also involve making copies from the record books?

A. Unless in the matter of a lost or mislaid instrument, when a party desires to have a certified copy made of it.

Q. That is what I alluded to.

A. Yes, sir.

Q. Is it not a frequent thing to have a call made upon your office for a copy of a record to be certified by you?

A. It is frequently done.

Q. Is there a statutory rate for this copying service, whether copying into the records, or copying from them?

A. I think there is. I think in Chapter 21, Section 3304 of the Code of Civil Procedure, it is designated as ten cents a folio.

Q. For both kinds of service? And, if not, for which?

A. I think for both kinds.

Q. Do you understand that to mean the rate at which the Register is paid?

A. I understand that that is the rate that the Register charges the profession and the citizens for copying their papers into the Libers.

Q. What relation is there between that rate of charge and the eighteen cents a page which the copyists receive?

A. I couldn't answer that intelligently without making that a matter of personal inspection and investigation, to find out how many folios on a page.

Q. Are you able to answer this: Whether the copyists are paid without any reference to the statutory rate which is permitted?

A. I think they are paid less.

Q. Or in other words the office receives at the rate of ten cents per folio, or whatever the rate may be, and then the rate at which the copyists are compensated is a matter of previous arrangement?

A. It may be possible it is eighteen cents a page; it may be six cents a folio; I am not positive about that.

Q. Who regulates the rate at which the copyists are paid; I mean, who has done so practically during your incumbency in office?

A. I have, practically.

Q. Do you not then recall what your arrangements with your copyists are?

A. We pay them about a hundred dollars a book.

Q. That means how many pages?

A. About five hundred.

Q. And how many folios to a page?

A. Well, that is a mere matter of computation; I couldn't tell you now without looking it over.

Q. When you make—I don't wish to spend too much time upon this, but still I wish to have exact what you have spoken about—when you make a bargain with a copyist, what is the arrangement about fixing his compensation; is it by the book or by the folio, or day, or what?

A. Well, primarily, by the book. Whether he completes the book in four weeks, or six weeks, it is a matter that he gets about a hundred dollars for the book. If he does it in four weeks he gets about a hundred dollars a month; if he does it in six weeks, he gets that much less.

Q. Have you any idea what five hundred pages—the contents of a volume—come to at the rate of ten cents per folio?

A. Well, written on both sides, it would be equivalent to a thousand. It would be about ten cents a folio; it would be about a hundred dollars a book.

Q. Well, that proceeds upon the idea that there is only one folio upon a page?

A. I am proceeding upon the idea that there is five hundred pages; I am not positive.

Q. But may there not be eight or ten folios to a page?

A. I am not speaking, I want you to understand me, of the exact number of folios on the page.

Q. The sum of it seems to be this; if I am right we will pass to another subject. The office is paid ten cents per folio for copying, and it pays the copyist at the rate of about a hundred dollars a book?

A. A Liber.

Q. So that the difference between one hundred dollars a book and the number of folios in the book multiplied by ten cents is what goes to the office?

A. Yes, sir.

Q. And the rest goes to the copyist?

A. Yes, sir.

Q. And what that rest may be, you don't know?

A. No, sir; I am not accurate in that matter.

Q. Exactly what is the mode of compensation of the other employees in your office? And if by salaries or per diem payment, will you be kind enough to state the amount?

A. They are paid salaries.

Q. All of them?

A. All of them.

Q. State the office, the person who holds the appointment, and the amount of the annual salary?

A. The Deputy Register is paid \$300 per month; the assistant is paid \$1,560 per annum; the index clerk, \$1,560 per annum; the junior index clerk is paid weekly by the deputy. I can't recall exactly what it amounts to; it is about \$30 a week; and the searchers \$1,600 per annum.

Q. Are all the searchers paid by salaries?

A. Yes, sir.

Q. What is the mode of charging by the Register for searching?

A. The statutory provision. I think it is about ten cents per year for each person named in the chain of title.

Q. Does the system of charging extra rates on searches, about which Mr. Barnard spoke in the County Clerk's office, also prevail in the Register's?

A. Yes, sir.

Q. Is that extra charge outside of the legal rate?

A. I believe it is.

Q. Will you be kind enough to inform the Committee, Senator Murtha, what you know about that whole system of extra charging on searches—I mean by extra charging, charges which are outside of the office fees by law?

A. All that I can inform the Committee about that matter is in a general way, that the arrangement is made between the counsel desiring the search and the searcher who makes it, if the work is to be done expeditiously, or

earlier than it could be done if it takes its turn as it was received in the office. What that compensation is I cannot inform the Committee, because the searcher and the counsel make it between themselves.

Q. What is this extra charge—what is supposed to be the basis for this extra charge ; what is assumed to justify it, if anything does ?

A. Primarily because the search must be done out of its regular turn, and frequently outside of the regular office hours.

Q. Have you any knowledge whether office hours are appropriated by your employees to doing this extra work ?

A. I assume it is.

Q. They are ?

A. Yes, sir.

Q. Have you any knowledge that they ever work outside of office hours in doing this work ?

A. No absolute personal knowledge, except that I see them in the office engaged at the usual work.

Q. Then must not the effect of this system of charging outside of the legal rates be to retard the searching, which is only compensated at the statutory allowance ?

A. No, I think not, for the searcher's plant that he has acquired, and which is his personal property, cannot be utilized except by himself outside of the office hours. You must understand me, Mr. Parsons, that the searchers in the Register's Office have acquired a plant, so to speak, an abbreviation of the chain of title, grantor and grantee, and that they utilize that outside of the office hours, I assume, for their own individual benefit. If a search came in in the regular order and went through the regular system of examination in each liber, it would be the cause of long delay in the preparation of the search ; and when a counsel comes in and desires to close a title in a limited time it is a matter between the searcher and himself.

Q. Does that mean that a different process is adopted by the searcher in the one case than in the other ; does he not do his work in precisely the same way in both ?

A. I presume so ; in office hours ; yes.

Q. Is there any means, Senator Murtha, of fixing the amount which that payment outside of the legal charges comes to in the course of a year in your office?

A. It could be fixed, I think, approximately.

Q. If we desire to obtain that information, how can it be got at with accuracy?

A. Well, I couldn't answer you that question except upon searching.

Q. Do you believe it can be got at with accuracy?

A. I think it can, yes, sir.

Q. If you were going to do it, what course would you adopt?

A. Well, I would ask the searcher, as you would, for specific information.

Q. Is that all you could do?

A. That is about all; yes, sir.

Q. Well, have you any idea that records are kept of these outside payments?

A. I think there are.

Q. Do you know?

A. Not of my own knowledge.

Q. Have you ever seen anything purporting to give an account, say through a month, or if you like, through the year 1886, of these outside payments?

A. Yes, sir.

Q. When did you see that account?

A. Oh, I have seen it in the searcher's books frequently—memorandums.

Q. You mean private books which the searchers keep. Do these entries come into the official books?

A. All searches paid for into the office come into the cash book every day as they are paid by the parties, when they are delivered. What proportion of that belongs to the searcher, I am not able to answer.

Q. Are you able to inform the Committee whether the searching amounts to a gross amount, or whether it subdivides itself into what is legal, and what is beyond the statutory amount?

A. All go into the gross amount; I so understand it.

Q. How is the lawyer who requests the search able to

discriminate between that which is legal and that which is not ?

A. By whatever arrangement he makes with the searcher.

Q. Have you the idea that these outside arrangements are for so many dollars, without any reference to the amount that is legally due ?

A. I have an idea that if the labor is to be done outside of the regular, ordinary manner of doing them in their turn, that the counsel engaged and the searcher engaged will agree as to what the compensation will be for the work.

Q. Is that compensation, as you understand it, fixed irrespective of the amount of the work ?

A. I don't know whether it is or not ; I presume it is the amount of the work.

Q. Assuming that the legal charge is \$5, or \$50, you cannot tell what the extra charge might be ?

A. Not unless it shows on the book.

Q. What record or entry is kept in your office of the receipts of the office ?

A. The cash book every day.

Q. Who keeps it ?

A. The Deputy.

Q. Mr. Barry ?

A. Mr. Barry.

Q. Who makes the entries in it ?

A. He does, and I do at times. The index clerk does at times.

Q. Were you here during the examination of Mr. Barnard and Mr. Ranken ?

A. I was.

Q. Do the moneys which pass through your office go into the bank ?

A. Yes, sir ; some of it does.

Q. Under what circumstances does some of it go into the bank ?

A. When it comes into my possession.

Q. And not before ?

A. No, sir.

Q. Does than mean after the disbursements of the office have been paid.

A. Frequently before, and usually after.

Q. Do you ever pay the disbursements of the office out of your bank account?

A. The office disbursements are made out of the office receipts.

Q. So that what comes to you is what you assume to be net?

A. Yes, sir. I would like to ask the Committee right here, in the line of Mr. Parsons' questions: After the receipts of the Register Office reach my hands, am I compelled to answer what I do with them?

MR. PARSONS: I haven't reached that point yet, Senator Murtha.

THE WITNESS: I simply ask that question because you are leading up to it.

MR. PARSONS: I shall get there.

THE WITNESS: I assume so. I only wanted to take cross lots and get you there quicker; that is all.

Q. First I think, Senator Murtha, it is important that you shall inform the Committee — and I think you will concede that it is a public subject and a public question?

A. Yes, sir.

Q. What is the gross revenue of your office; what, for example, was its gross revenue during the year 1886?

A. \$73,000.

Q. How do you know that the amount was no larger than that?

A. From the amount received in gross, and the net sum left.

Q. Do you understand that I am asking you now about gross receipts?

A. I so understand, yes, sir, the income from all sources in the office.

Q. The income from all sources before deductions are made?

A. Yes, sir.

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Q. Do you understand that I am asking you now about gross receipts?

A. I so understand, yes, sir, the income from all sources in the office.

Q. The income from all sources before deductions are made?

A. Yes, sir.

Q. Has there been made up by you under the request upon your subpoena a statement which brings out this result of \$73,000 for the year 1886?

A. There has.

Q. Have you the exact figures here?

A. I have.

Q. Will you oblige me by producing them?

A. (The witness examines a paper.) It will be necessary to add two amounts together here, Mr. Parsons. (The witness adds together certain figure, and says): I will call it off to the Committee, and they can get it then, the net cash receipts received.

Q. No, I am not asking you about net cash receipts.

A. But I will give it in my own way.

Q. I ask you first for gross receipts?

A. I was making it up in this way, the net receipts taken first and giving you expenses to add unto that to make the gross receipt. The subpoena asked me to give the net receipts, and I have prepared my statement in that way. The gross receipts from my memoranda are \$68,916.32.

Q. For 1886?

A. For 1886.

Q. Where consists the difference between that account and the \$73,000, which you previously mentioned?

A. I simply gave you that from memory. This is the absolute figure.

Q. From what source are those figures taken?

A. They are taken from the cash book kept in the office.

Q. Is that book here so we may see the mode in which it is kept?

A. No, sir; but you can send for it. It is in daily use on the desk now during office hours.

Q. Will you oblige us, Senator Murtha, by having that here in the morning?

A. Certainly.

Q. What are the sources from which this revenue is derived?

A. From the fees for recording and from the searches.

Q. Are those the only sources of revenue to this office?

A. Except certified copies are asked for.

Q. Does your statement discriminate so you can inform the Committee what according to your books is the amount during 1886 for searches, what for records, and what for certifying copies?

A. My book contains all the income, all put in each day; searches, deeds, conveyances, mortgages, satisfactions being carried in each day's cash receipts.

Q. Does any part of this consist in the extra charge about which you have given evidence?

A. I assume that it does.

Q. Do you know?

A. Not without I examine the books and ascertain that fact

Q. Does that mean that it may be the case that these extra charges are paid into the office, and then are paid by the office to the searchers?

A. I assume that the search, on the face of it, is paid by the lawyer, and whatever the regular rate belongs to the office is retained, and the balance is handed to the searcher.

Q. Have you ever seen any books at the office containing entries purporting to represent payments of these extra charges to the searchers who rendered the service?

A. There are memorandum books of that kind kept there; yes, sir.

Q. Then why can there not be an official statement made up from the official books?

A. There can be.

Q. (Continuing.) Which will show the amount of these extra charges during 1886?

A. I thought you asked me to make it up from my cash book, which I am to bring here to-morrow morning. That I cannot do, because they are all mixed up there indiscriminately. That can be made up from the memorandum book by the searcher.

Q. But if ten dollars is received on a given day for a search, and that consists of five dollars legal fee and five dollars outside fee, belonging to the searcher, will not the book that shows the ten dollars received as fee not also show the five dollars paid to the searcher?

A. No, sir; that book will show the amount due to the Register.

Q. And, then, according to this explanation, does the searcher get this extra charge—it seems to come into your possession?

A. It is paid to him by the lawyer or deputy clerk, I assume.

Q. But paying by the lawyer is one thing, and paying the deputy is another. Paying by the lawyer means money which does not come into your possession; paying by the deputy means money which does. Now, which is the fact?

A. Well, the fact I think is that I don't think any of it comes into my office and mingled with my cash.

Q. Does any part of this cash go to make the \$68,916.32?

A. The extra fees?

Q. Yes.

A. I couldn't answer as to that. I think not.

Q. Perhaps I misunderstood you; but I understood you to say that in this \$68,916.32 was included this extra charge?

A. If there are extra charges; all the income of the office is in the \$68,916.32, Mr. Parsons.

Q. Are you in doubt whether this sum does or does not include that extra charge?

A. I am not sure of that until I would investigate that and calculate exactly.

Q. Can you do that between now and to-morrow morning?

A. Yes, sir.

Q. Have you any detailed statement showing the expenses of your office?

A. Certainly.

Q. Is it here?

A. It is in the book in the office. I have a transcript of what I pay my copyists and my employees. That is testified to here now, what the employees are. I can give you the amount paid the copyists. You did have those yourself.

Q. Have you any statement showing the total of the disbursements of the office?

A. Yes, sir.

Q. Is it here?

A. Yes, sir; I read part of it for you. I was preparing it as I understand the subpœna, giving you net, and you asked for gross.

Q. If you will look at your subpœna you will find I first asked for gross receipts and then asked for net?

A. Yes..

Q. The question which I will now put you is, what, according to your books, or according to any information which you have consulted, was the amount during the year 1886 paid for expenses of the office?

A. The copyists, \$17,066.54, between January 1st, and December 31st, 1886.

Q. And December 31st?

A. December 31st, copyists since January 1st, up to—

Q. No, please keep it to the year 1886.

A. For papers that were taken into the office in 1886, and which have been copied since and we are paying for now. The amount is \$1,700, and that is to be added to the \$17,066.54. The salaries, as already testified, of the staff in the office is \$13,120, making a total of \$31,836, as I make it.

Q. Now go across lots for the difference between that amount and this \$68,916.32, how much is left?

A. About \$37,000.

Q. Who gets that?

A. I do.

Q. What is the exact amount according to your statement?

A. About \$37,029.

Q. As I understand, that means the net amount over all expenses which came to you out of the office during 1886?

A. You understand it rightly.

Q. Are you quite sure that that covers everything?

A. I think so.

Q. Can you be positive about it?

A. I am as positive as any human being can be in examining figures and ascertaining exactly the income.

Q. I cannot ask you to be more positive than that ; are you that positive ?

A. I feel that positive ; yes, sir.

Q. Are there any advantages (I mean of a pecuniary character) outside of those figures which came to you during 1886 ?

A. No, sir.

Q. All you got, then, out of the office, was this sum of \$3,709 for 1886 ?

A. Yes, sir.

Q. Have you considered this subject of a change in the Register's office from a fee office to that of a salaried office ; has there been any agitation on the subject of legislation to that end ?

A. Yes.

Q. Dating how far back ?

A. About ten years, I guess.

Q. What position has been taken by the office on that subject ?

A. My predecessors, I guess, were antagonistic to the change.

Q. Has there been antagonism to the change on the part of the Register irrespective of his politics, whether he were a Republican or a Democrat ; has he always stuck to the fees and opposed the salary ?

A. I presume he has.

Q. Is that your way of looking at the subject ?

A. Not aggressively at this time ; no, sir.

Q. Defensively ?

A. Exactly.

THE WITNESS : I wish, Mr. Parsons, you would permit me to make a statement ?

MR. PARSONS : Senator Murtha, will you permit me to say to you and to every other witness under my examination during this investigation, that as I think this is not a trial, so that witnesses are not entitled to be represented by counsel, they ought to have the most extreme privilege of

saying anything that they wish in explanation or justification, and anything you can say will be said to my great gratification. Do you wish to make your explanation now?

The WITNESS: In answer to your question, so that there will be no misunderstanding of my reason why the office ought to be retained as a fee office, I wish to say this, that my opinion arises from this fact: Under the present system, the employees being largely paid by piece work, they invariably work from twelve to thirteen hours per diem. If the office was a salaried office with twenty-two copyists that I now employ, who average twelve hours per diem, between the hours of nine and four, which are the official hours, in order to get the same amount of work done, you would have to double that force, because that is only six hours of continuous work, as against twelve under the present system. Likewise in the case of the searchers, that would probably require eight, and possibly ten. From the experience of the Register's Office in New York in the past two months, it is demonstrated that the fees will not earn sufficient to pay the expenses, out of the fees authorized by law, within the office hours. There is now pending, I believe, in the Legislature an act authorizing the Register to charge one half of the regular fee for the work done out of office hours, which is also in existence in the County Clerk's Office. In the absence of such legislation as that, in the mere transcript of the documents in the Register's Office in New York with the existing force, it would be a loss of sixteen days in each thirty in the month, in doing the work.

Q. But suppose that every other expense remained unchanged; that the employees did exactly the services which they now render, and received for them exactly the compensation which you now pay them; if the salary of the Register were \$10,000 for 1886, there would have been a saving to the community, would there not, of the difference between the \$10,000 and the \$37,029 which you received net?

A. No, there would not, to the general public.

Q. To whom would that saving have come?

A. There would have been an increased number of employes getting a livelihood out of the office.

Q. Would you not be equally able to regulate your office and to see that the employes rendered their work at the same pay, whether your pay were \$10,000 as a salary, or you received fees which amount to over \$37,000?

A. I could regulate their work in the office hours, of course; but without a large increase of the force the work could not be kept up in the office hours.

Q. You can do the business just as well under a salaried system as a fee system, can you not?

A. Oh, yes.

Q. At the same rate?

A. But I could not get the work done with the same force, because you cannot work twelve hours when the official hours are but six.

Q. But you could employ them to work twelve hours?

A. Yes, but that is by piece work.

Q. Leaving your employees to be paid by piece work, and the subordinates under the Register to go on precisely as they do now, how could it be otherwise than that under a salary of \$10,000 there would have been a loss during 1886 to you, and a saving to the community of the difference between \$10,000, which you would have received, and the \$37,029 which you did receive?

A. I assume that the practical results would be the same in Kings County as it is in New York, when the facts are that there will be an actual deficiency as between income and disbursements.

Q. Is there any other argument or suggestion bearing upon this subject of a change of the system which you think it important to have the Committee consider?

A. No other argument; any other argument would be merely hypothetical. I am speaking of the practical working of the new law for New York, giving a salary as against the fee system.

Q. Is it not the fair import of your position that it is cheaper to the community that the business should be administered under a system which pays you \$37,000 clear, rather than under one which would pay you \$10,000 clear?

A. If the disbursements can be made identical in the case of running the office under the salary as it is with the fee system, it is self-evident that it would be to the interest of the County and the citizens to have the change.

Q. But there is no disbursement out of the \$37,000 which you receive, except such as it pleases you to make, is there?

A. There is not.

Q. Now, sir, I put to you the same question which I addressed to Mr. Ranken, and ask that tomorrow morning you will be prepared with a written statement upon which to testify, of the disbursements made by you of this sum of \$37,029, which for 1886 remained to you over all the expenses of your office; will you have that statement here?

THE WITNESS: I have already testified in answer to Mr. Parsons' question what disposition of the money I made; namely, that I kept it. I think that is on the record. Now I decline to go into my private affairs unless I am peremptorily ordered to do it; inasmuch as I do not think that the inquiry, this pending inquiry, has any connection with my private matters at all.

Q. Is that the only reason of your declination?

A. I think that is the only reason, and I think that is a sufficient reason.

MR PARSONS: Then the counsel leave the subject to the Committee, as was done in the case of Mr. Ranken?

MR. GREENE: And I take the same position upon it as in the other.

THE WITNESS: I wish to say this much to the Committee at this time: that if there is any charge that any fee received in my office has been illegally exacted, or that I have made irregular charges, that I consider that that is a subject upon which the Committee can enter, and call for me to explain; but if the office is deemed to be conducted, as I believe it is, in conformity with the provisions of the law, the income of the office, under the law, belonging to the incumbent, I do not think it is the province of the Committee to ask what I do with my private funds after they

have passed into my private possession; I do not think that it is pertinent to this inquiry.

THE CHAIRMAN: The Committee take the same position in this case as in the other.

MR. CUTLER: And the minority take the same position as before.

MR. GREENE: I concur in that.

THE WITNESS: Will you be kind enough to repeat that question; as I understand, I am asked by the majority of the Committee to answer a question that you propounded to me, Mr. Parsons; now, if you will be kind enough to have it read to me, I will know what it is you wish.

MR. PARSONS: The stenographer will write out the request that I made to you, and you can take it with you.

By MR. PARSONS: Q. Will you tell me where you keep your bank account?

A. At the Nassau National Bank.

Q. Will you be kind enough to have your check book here, so that if there is any necessity to appeal to it, it can be referred to.

A. Yes, sir.

Q. Are you informed upon the subject whether 1886 was a good or a bad year, as compared with other years?

A. Mr. Richards could tell better about that. I have no means of making a comparison.

The Committee then adjourned to to-morrow, Saturday, March 5, 1887, at ten o'clock.

COMMON COUNCIL CHAMBER,

BROOKLYN, N. Y.,

March 5, 1886. 7.

Met pursuant to adjournment, all parties being present as heretofore.

William H. Murtha, recalled and further examined.

BY MR. PARSONS :

Q. Register Murtha, I omitted yesterday to inquire whether your office keeps a running account with lawyers ?

A. It does.

Q. Do you know how much was due upon those accounts for services rendered during the year 1886 ?

A. I do not absolutely, but I think about \$3,000.

Q. Isn't that amount to be added to the \$37,029 that you mentioned yesterday as the net income of 1886 ?

A. That is a suspense account. It is an asset when I collect it. If I do not collect it of course it is not a source of revenue.

Q. But if you do ?

A. Then it would be a source of income.

Q. And it would be in addition to the \$37,029 ?

A. I hope so.

Q. What knowledge have you about the amount. You say you think it is about \$3,000. How sure are you upon that subject ?

A. From a casual examination of the ledger.

Q. Is that a matter of record in your office ?

A. It is.

Q. So that the exact amount can be ascertained ?

A. Yes, sir.

Q. Will you oblige us by ascertaining the exact amount on December 31, 1886, and communicate it to the committee ?

A. Yes, sir.

Q. Was there any other sources of revenue during 1886 which were not realized into money at the end of the year?

A. No, sir.

Q. Does that, so far as you are aware—the sum mentioned by you yesterday—\$37,029, with the addition of the amount due on bills at the end of the year, comprise the entire net income of the office for 1886?

A. It does. I think, however, that there is an account to be adjusted with the Board of Supervisors, the amount of which I am not aware of.

Q. Which is in the nature of revenue?

A. In the nature of revenue, yes, sir; for indexing libers.

Q. Is that an exceptional, occasional or a regular charge?

A. That is a charge that has been in existence, I think, since the creation of the office.

Q. At what interval is the claim made?

A. I can't tell.

Q. Annually or semi-annually?

A. I don't know how my predecessors made the charges; I have not made any yet.

Q. Is there an account in the office showing the amount of that charge in 1886?

A. No, sir.

Q. What are the data from which the amount of that charge in 1886 can be ascertained?

A. Upon the completion of a number of libers written up during the year 1886; but they are not yet completed.

Q. Have you any judgment what the probable amount of that charge was in 1886?

A. The probable amount is from \$1200 to \$1500.

Q. Were there any other sources of revenue for 1886 to which you have not yet alluded?

A. None that I am aware of.

Q. Is it safe to assume that the net income of 1886 was considerably in excess of \$40,000?

A. No, sir; it was not considerably in excess of \$40,000. With the items I have mentioned added to the \$37,000 it would approximate a trifle over \$40,000.

Q. Senator Murtha, is not the office of Register more dependent upon activity in real estate than is the case with the County Clerk's office—or in other words, does not the Register's office depend for its emoluments almost exclusively upon transactions in real estate, that only comprising a part of the source of revenue for the County Clerk?

A. I can only answer from my personal knowledge of the Register's office. I don't know the details either as to the legal fees or sources of revenue of the County Clerk.

Q. Answer then, please, about your own office?

A. It depends largely upon the activity in dealings in real estate—the income.

Q. Assuming then that Mr. Barnard was correct yesterday in speaking about 1886 as a bad year through the fact of depression in real estate, that would make 1886 a bad year for your office, would it not?

A. If the County Clerk derives an increased income from the misfortunes of the public by reason of judgment decrees, that might be a bad year; when the investment of surplus funds by the public in the purchase and exchange of property would necessarily be to the benefit of the Register's office.

Q. Have you any knowledge or information about the income from the office in preceding years?

A. I have not.

Q. Have you any information about the income during the three years of the term of office of your immediate predecessor?

A. I have not. My predecessor when he left the office took away the books that were his personal property and had the records of his administration in them.

Q. Who is there in the office at the present time who was there during the preceding administration who will have knowledge upon the subject of its revenue?

A. I assume that the Assistant Deputy Captain Francis Doyle, who is there with me and whom I retained, would have some knowledge, but that would not be derived from books. There are no books there.

Q. Can you have Captain Doyle sent here?

A. Yes, sir; he can be present.

Q. Will you be kind enough to do so?

A. Yes, sir.

Q. Are there peculiar or special privileges given by your office to any persons?

A. In the matter of searching?

Q. In the matter of facilities of any kind?

A. No, sir.

Q. It has been suggested that there is some organization, a Title and Guaranty Company perhaps, which pays for special facilities. What do you know about that subject?

A. The Title and Guaranty Company have men making copies of the record in the office, and now engaged at that work with a limited force. I am not aware that they pay anything for the service.

Q. How long has that been going on?

A. I found it going on when I entered the office in January, 1886.

Q. Has it been going on continuously during that year?

A. It has.

Q. Have you any knowledge upon the subject whether that company does or does not pay the office for special facilities?

A. I have not.

Q. With whom has been made the arrangement under which they are doing this work?

A. The arrangement was made under my predecessor on the application of this company, as I understand it, under a charter derived by them from the Legislature of the State, and they have been prosecuting it ever since.

Q. Are you able to inform the Committee whether in the figures given by you thus far is included any payment made by that company?

A. There is not.

Q. So that if any payment has been made to your office, from whomever it would be, it would be in addition to these figures you have stated?

A. If there is it would be, yes, sir.

Q. When is the work of this Title and Guaranty Company done, at what hours of the day or night?

A. It is done during the office hours, from nine until four.

Q. Was any change made in the force engaged in this work after you came into the office?

A. There was.

Q. Was it largely increased?

A. It was increased I think between May and November, 1886.

Q. By an arrangement made with whom?

A. By reason of the fact that in March, 1886, their representatives desired to increase their force and sent men into the office whom I objected to having in there, because I believed it would inconvenience the general public. The Company commenced a suit against me, and rather than abide a lawsuit I agreed to permit them to send men in there during the summer months after the office hours while my copyists were in the office, and my custodian was present, to make these transcripts.

Q. Was the arrangement under which that was done made by yourself personally?

A. Verbally, yes, sir.

Q. With whom was the arrangement made, with what individual?

A. It was made with the Vice-President of the Company.

Q. What is his name?

A. Kelsey.

Q. Is it the fact that that arrangement included no question of compensation?

A. Nothing but the pay of the custodian, who is my representative.

Q. Is that a large or small item?

A. No, sir. About \$15 a week.

Q. Only one custodian?

A. Yes, sir.

A. Register Murtha, have you, since the question was put to you yesterday, informed yourself about the use made of this net income that was received by you during the year 1886?

A. I have your question that you had reduced to writing for me yesterday; I have the public books of the office with

me: (reading from paper) in the matter bearing upon my private accounts, I simply desire to say at this stage that I am unable to state—nor can I ascertain from any books, papers, or memoranda in my possession or under my control—what disposition was made of the sum of \$37,029 specified in your question and received by me as the emoluments of my office, as distinct from other receipts accruing from my private business as a coal merchant; whatever moneys I have received, from whatever source, have been intermingled, and have all been expended in my living expenses and other ordinary personal expenses, and in the investment of the surplus over and above such expenditures. I decline to produce my private check-book on the ground that it has no relation to my conduct as a public officer, but is confined exclusively to transactions relating to my private affairs, and has no connection whatever with the administration of my office, and contains no entry of, nor shows, or tends to show in any manner, any transactions of an official character.

BY MR. GREENE: Q. With the permission of the Chairman I would like to ask the witness a question: Senator Murtha, prior to your election and pending your campaign for election, or at the time of your election, or at any time subsequent, was there any agreement with any person, party, association or corporation, as to any division of the fees or the proceeds of this office at any time?


A. No, sir.

Q. Or since?

A. No, sir.

BY MR. PARSONS (resuming): Q. Will it be just to infer that the answer you have just given, and which I think was read from a manuscript, is given under the advice of counsel?

A. No, sir; I have engaged no counsel; but as the question seemed to me to be in the direction of a violation of what I esteem to be the private rights of a citizen in the regulation of his own personal affairs, I have taken occasion to inform myself what would be my rights under the circumstances, and that is my answer.



Q. By consulting counsel ?

A. By consulting legal friends.

Q. Has that taken place since your examination of yesterday ?

A. It has.

Q. Will you state exactly what you mean by the answer which you gave to the question put by Judge Greene; I understand you to say in response to his inquiry that no agreement or arrangement of any kind was made by you with any one for a division of the emoluments of your office; is that what you did state ?

A. That is what I did state.

Q. Do you mean by that answer, that prior to your entering upon the office there was no conversation between you and any one upon the subject of the emoluments of the office, and anything to be paid from them ?

A. I wish to state emphatically and distinctly that I never had a conversation with any individual or any corporation, or any combination of individuals, looking to any division of the emoluments of the Register's office during my term of office, either before I was elected or since I have been acting in that capacity.

Q. No doubt you intend to be perfectly frank in your answer, and yet you fail to note the point of my inquiry, which is, whether prior to your entering upon the duties of the office there was or was not any conversation between you and any one upon the subject of the emoluments which should accrue during your term of office ?

A. The aggregate emoluments ?

Q. The aggregate emoluments or any part of them ?

A. Never.

Q. Is your answer intended to be so broad as to embrace the point whether or not, when you entered upon the office you had the idea that certain expenses would need to be paid from its revenue outside of the direct expenses of the office ?

A. My answer to that question is, that outside of the legitimate expenses of the office the entire net proceeds is my individual property.

Q. Again you fail to note the point of the inquiry. No

question is raised about your right to dispose of the emoluments of the office ; but what I desire to ascertain is whether there was prior to your entering upon the office no conversation with any one and no consideration by you of the subject whether out of those emoluments certain payments should be made ?

A. There never was such conversation with any one.

Q. Do you mean to be understood that you entered upon the office with no idea that out of its revenue you would need to make certain payments—I mean payments which are not embraced in the ordinary expenses of running the office ?

A. You do.

Q. Pass now, please, from conversations preliminary to your entry upon the office, and come down to what has taken place actually since. Have there not been made by you since you entered upon the office, payments which would not have been made but for the fact that you were receiving this revenue—and I bring your attention directly to the point of payments made for party or political purposes ?

A. You mean assessments ?

Q. I am so ignorant upon the subject that what the technical name may be I do not know ; but I want the thing. You may call it by whatever name you like ?

A. I never paid any assessment out of the revenue of the office.

Q. You have just said that you mixed the revenues of the office with your individual means ; and therefore the question is not of paying assessments out of those particular moneys, but about paying assessments generally. What assessments have you paid since January, 1886 ?

A. None.

Q. What moneys have you paid towards public or party or political purposes ?

A. Oh, I have subscribed, as has been my custom for nearly twenty years during the campaign, for the success of the Democratic Party.

Q. Has the amount increased since you came into the receipt of this large income ?

A. No, it has not.

Q. How many years is it during which you say you have been paying political assessments?

A. I never paid a political assessment in my life.

Q. What was the term you used?

A. I have subscribed as a private citizen.

Q. How long have you been doing that?

A. About twenty years.

Q. Have you any objection to stating what was the amount thus paid by you during the year 1880 for example?

A. I decline to answer. That is my private affair.

Q. Have you any objection to stating what was the amount thus paid by you during the year 1886?

A. I decline to answer.

Q. Are you able to answer. Have you the knowledge so that you can answer if you wish?

A. I decline under the statement I read. That is my private affair.

Q. Are you willing to give the names of persons to whom you have made what you call political subscriptions since the first of January, 1886?

A. I decline to answer that question.

Q. Are you unwilling to communicate any information about the amount thus paid by you in 1886?

A. I am perfectly willing to communicate any information that the Committee desires of my official acts as a public officer; but my individual acts as a private citizen I exercise the right, I think, to control myself.

Q. What I desire to ascertain, is whether you are unwilling to give any information about the amount of those payments which you have described as paid by you during 1886, about the amount?

A. There is no unwillingness arising on my part to give any information that I think is pertinent to this inquiry; and that I think is not.

Q. To bring the matter right down to a point, I ask you to state the amount thus paid by you during the year 1886. Will you answer or decline?

A. I decline.

Q. On what ground do you decline?

A. On the ground that it is my own private affair, and not under investigation.

Q. I ask to whom you made such payments during 1886?

A. I decline.

Q. I ask you to state whether the amount was more or less during 1886 than \$20,000?

A. I should say radically less.

Q. State what the amount was?

A. I decline.

Q. Then, apparently, your disinclination is not to be examined on the subject, but not to state the amount; is that it?

A. My disinclination is, that it has no reference to my discharge of my duties as a public officer; if it had I would answer the question with pleasure; as it is my own private individual matter, I don't think it pertinent to this inquiry, and therefore decline to answer.

Q. I would like to ask you as a very intelligent and public-spirited gentleman, whether it does not concern the public interest to know whether a large part of this very large sum, which thus comes from the community, goes to any necessary expense of the office, or is in the end used for the purpose of aiding a party or political organization?

A. I can answer you that in my case it does not go for that purpose.

Q. That is an answer, proceeding, is it not, from the testimony previously given by you, to the effect that you mixed up the moneys coming from your office with your private moneys?

A. It is an answer that the income does not go for political purposes.

Q. Would not you say that some part of that income went for political purposes if during that year that you were receiving this income the payments made by you for political purposes were enormously in excess of payments made at other times?

A. If they were, yes.

Q. Why, then, is it you are unwilling to state what was the amount of such payments made by you in 1886 by contrast with such payments made by you in 1876?

A. Because I do not consider it germane to this investigation.

Q. Whether you consider it so or not, do you absolutely decline to give the information?

A. I have already stated that the subscriptions I gave in 1886 were not in excess of those in former years.

Q. Why, if you are willing to state the conclusion, are you not willing to give details so we can ascertain whether you are accurate or not? Why are you not willing to tell what the account was in 1876, and what in 1886?

A. You have my testimony that what I subscribed in 1886 is about the average of former years. As a private citizen in former years I subscribed my funds, and as a private citizen in 1886 I subscribed my funds.

MR. PARSONS: With the permission of the Committee we will suspend the consideration of what action we will suggest to the Committee, in view of Senator Murtha's position, and reserve the consideration whether we will so advise or not later. Senator Murtha, we will excuse you, and ask you to have Captain Doyle and Mr. Barre come here.

THE WITNESS: Shall I send him over immediately?

MR. PARSONS: Yes, sir. Are those the books I asked for yesterday to be produced?

THE WITNESS: Yes, sir; they can be produced by Mr. Barre.

MR. PARSONS: You may leave them here.

THE WITNESS: I will ask the Committee to rule on the question raised in my answer whether I could be authorized to appear by counsel in the matter that Mr. Parsons now has under consideration.

MR. PARSONS: Let me again suggest whether that matter may not better be left over until we see whether it arises?

A. It may not.

THE WITNESS : I only desire to be prepared with counsel, if it is in accordance with the sentiment of the Committee.

MR. PARSONS : We will take great pleasure in informing Senator Murtha if we intend to raise the question, so he shall have an opportunity to protect himself.

THE WITNESS : Is that the judgment of the Committee ?

MR. COLE : I think, gentlemen, it is the sense of the Committee that these questions should be answered some how, by somebody.

THE WITNESS : I prefer to have the matter decided now, so that I can consult counsel if it is necessary.

MR. PARSONS : The counsel think it is better to let this matter stand in suspense for the present. We may be able to obtain the information in other ways, and that, of itself, will save the necessity of raising that question with Senator Murtha.

THE WITNESS : Do the Committee acquiesce in that suggestion ?

THE CHAIRMAN : Yes, Sir.

John M. Ranken recalled and further examined :

BY MR. PARSONS : Q. Have you, since your examination of yesterday, obtained the information which you were asked to put together ?

A. In part, yes, sir, but not completely.

Q. What makes the information you have put together incomplete ?

A. The first reason is, I didn't have the time, and the second reason is, I decline to produce it.

Q. Does that mean that you have done nothing since yesterday in compliance with the request of the Committee and their counsel ?

A. I made a few memorandas and found that to put the thing in a tabulated statement, as the Committee required, it would be impossible in the time.

Q. I understood you yesterday to say that it could be put together in two hours, couldn't it ?

A. Possibly so ; yes, sir.

Q. Why do you now think a longer time is required ?

A. I found there was more of it than I calculated.

Q. Have you also consulted counsel since yesterday on the question whether you will or will not give the information ?

A. My answer to that is the same as that of Senator Murtha ; I have not employed counsel.

Q. I didn't ask you whether you employed counsel. I want to know whether you have advised with counsel ?

A. I have asked a friend, yes, sir.

Q. Was the friend a lawyer ?

A. Yes, sir.

Q. Upon that advice do you decline to give the information which was yesterday asked from you ?

A. Yes, sir.

Q. Have you brought here the check-book in which yesterday you stated would appear the entries of moneys received and disbursed by you ?

A. No, sir.

Q. Why not ?

A. Because that would be going into my private accounts, and which I don't think the Committee has power to inquire into.

Q. State, if you please, what amount has been paid by you since January 1, 1886, for party or political subscriptions, assessments or purposes of any kind ?

A. None.

Q. Does that mean that no money has gone from you since January 1, 1886, for party purposes ?

A. I contribute money to the Democratic Campaign Committee of the County of Kings, as I have been in the habit of doing for many years. Such contributions were made voluntarily, and not as an assessment.

Q. What has this contribution amounted to since January 1, 1886 ?

A. I decline to answer.

Q. Did you have any conversation with any person prior

to January 1, 1886, upon the question of what should be done with the emoluments of your office?

A. No, sir.

Q. Do you mean it to be understood that there was no conversation between you and any one upon the subject of payments or subscriptions to be made by you if you should become County Clerk?

A. Yes, sir.

Q. No conversation at all?

A. None at all?

Q. By you or in your hearing?

A. By me or in my hearing.

Q. When were you nominated as a candidate for this office?

A. The date of convention—I cannot say for a certainty. I should judge it was about two or three weeks previous to the election in 1885.

Q. Have you held public office before?

A. No, sir.

Q. How long have you been in the habit of contributing toward such expenses as you have described?

A. Well, for fifteen years, at least.

Q. State, please, what was the amount thus contributed by you in 1876, and what in 1886?

A. I cannot, for the reason that I do not remember. I have no record of what I contributed ten years ago.

Q. State, then, what amount you contributed in 1886?

A. I decline to answer.

MR. PARSONS: Will the stenographer oblige me by reading the answer which Mr. Ranken just now read?

The stenographer read the answer, as follows:

“A. I contributed money to the Democratic Campaign Committee of the County of Kings, as I have been in the habit of doing for many years. Such contributions were made voluntarily and not as an assessment.”

Q. Name the persons to whom were paid the amount which you describe as having been contributed by you to the Democratic Campaign Committee?

A. I decline to answer.

MR. PARSONS: Mr. Chairman, I understand that the proper course, where a witness declines to answer questions which a Legislative Committee regard as material, is that the fact shall be reported by the Committee to the body to which they make their report and from whom they derive their authority. I understand, however, that the Committee is first called upon to take action upon the questions whether they will or will not direct the answer to be given, so that the refusal of the witnesses should not only be a refusal to answer a question put by counsel, but that it will also be a refusal to comply with the directions of the Committee, or, in other words, that the witness puts himself in the situation of defying the power of the Legislature as represented by its Committee. It seems to my associates and myself, therefore, that we are called upon to ask the Committee, if such shall be its determination, to instruct the witness to communicate this information, and that his answer be taken upon the record.

After consultation **MR. BACON** said :

THE CHAIRMAN: The majority of the Committee—the Committee acting as such—direct that the question be answered. The Committee direct that the question be answered.

MR. GREENE: I desire to state that I will not take any such responsibility as joining in an order compelling any witness to testify to what I regard as his private affairs.

MR. CUTLER: I desire to say that I do not concur in any feature of this examination which proposes to conduct excursions into the domain of private affairs. For that reason, and that only, I dissent. I believe that the investigation, so far as a public officer is concerned, ought to be complete and absolute, but beyond that I dissent.

MR. PARSONS: I ask the Chairman to learn from the witness what course he proposes to adopt in view of this direction.

THE CHAIRMAN: Will the stenographer kindly read the question that was asked by Mr. Parsons, which shall be the question of the Committee and which we adopt?

The stenographer reads as follows :

“ Name the persons to whom were paid the amounts which you describe as having been contributed by you to the Democratic Campaign Committee.”

THE CHAIRMAN: The Committee directs you to answer the question of counsel and state what were your contributions to the Democratic campaign fund for 1886 ?

THE WITNESS: I decline to answer.

BY MR. PARSONS: Q. Mr. Ranken, I ask you to produce your check book and to refer to any entries which it contains of payments made by you during 1886 to the Democratic campaign fund or to any political fund ?

A. The money I deposited in the bank is my private account, and I draw against it. I decline to produce the check book.

THE CHAIRMAN: The Committee direct you to answer.

THE WITNESS: I decline to do so.

(The examination of Mr. Ranken was then suspended, and Mr. Barre took the stand.)

William Barre, being duly sworn as a witness, testifies as follows :

BY MR. PARSONS: Q. Mr. Barre, are you Deputy Register ?

A. Yes, sir.

Q. How long have you been connected with the Register's office ?

A. Since it was organized, excepting for three years—1883, 1884 and 1885.

Q. When was the office organized as a separate office ?

A. In 1853, 5th of January.

Q. What positions in the office have you held from time to time ?

A. In the Register's office ?

Q. In the Register's office ?

A. Deputy and also Register.

Q. Including what years were you Register?

A. 1874 to 1880.

Q. What are your particular duties as Deputy Register?

A. Receiving all the documents that came into the office, attending to the office records and filing.

Q. Is that all, sir?

A. Filing papers; all papers that come there.

Q. Are you the practical head of the office?

A. No, sir.

Q. Who is?

A. Mr. Murtha.

Q. Does Mr. Murtha concern himself about the practical administration of the office?

A. Some part of it; yes, sir.

Q. What part?

A. He discharges mortgages, signs a great many papers and does a good many things that he is told to do.

Q. Who tells him to do things which he does?

A. I do.

Q. What have you to do with the fees of the office?

A. Receive them and pay them over to him.

Q. Do all the fees come into your hands?

A. Yes, sir.

Q. Were you in attendance upon the Committee yesterday?

A. No, sir.

Q. Is it the fact that many searches made in the office are accompanied with or by an extra charge, and if so, will you be kind enough to state the circumstances under which that extra charge is made. By an extra charge I mean a charge in excess of the legal fees?

A. It is done, sir, when the people come in and when in a hurry, and can't wait the allotted time, and they pay extra for doing the work.

Q. Do you know how much that extra charge aggregated in 1886?

A. I never kept any account of it.

Q. Are there any records or entries which will show?

A. I think the searchers themselves have it. I pay them as the money is received, I pay them their extra. For in-

stance, you come in and pay me for a search and it is extra; I immediately pay them. And the fees go to the Register.

Q. Upon what principle or what rule do you divide between the legal and the extra fee?

A. The parties that make the arrangement with the clerk make the arrangement with the searcher how much they will give him for the search; and if he don't make any price the searcher fixes it himself.

Q. How do you know about it?

A. I don't know anything about it.

Q. How then can you make this division?

A. I know what the legal fees are and I know what the extra are.

Q. That is what I ask you?

A. Yes, sir; of course I know that.

Q. Who makes the computation of what the legal fees amount to?

A. The searcher himself.

Q. Does it mean, according to the routine of business, that where the search is completed you are furnished by the searcher with a statement showing the amount of legal fees and what is the amount of extra?

A. Yes, sir.

Q. Is the entire extra charge turned over to the searcher?

A. No, sir.

Q. What becomes of the rest of it?

A. One-third of it goes to the Register.

Q. Was that so during 1886?

A. Yes, sir.

Q. Who pays it to the Register?

A. That extra charge?

Q. Yes?

A. I do, sir.

Q. How can the amount of that extra which you handed to the Register during 1886 be ascertained?

A. By taking the searchers' books and adding them up; the four searchers' books.

Q. Then this amount which the Register receives must be

in excess of the amount received by him as the result of deducting the expenses from the fees which go into the regular books ?

A. He pays the searchers their salaries out of that.

Q. Doesn't he pay their salaries out of the legal fees ?

A. Yes, sir; that goes in part of it. That is put on the cash book as fees.

Q. Senator Murtha stated yesterday that the gross fees of the office for 1886 amounted to \$68,916.32; did you make up that amount for him ?

A. No, sir; he made it up himself.

Q. Are you able to inform the Committee whether that does or does not include this extra charge or proportion of that extra charge received by him ?

A. It is all in that, sir.

Q. Is that a matter about which you cannot be mistaken. Are you perfectly sure ?

A. Yes, sir; I am sure of it.

Q. Have you any judgment of the amount which the extra charge reached during the year 1886 ?

A. I have not, sir.

Q. Is not an extra charge made in the case of a very large majority of the searches ?

A. Well, probably 50 per cent. of them.

Q. Is it not more likely 90 per cent. ?

A. No, sir, it wont exceed 75 per cent. at the farthest.

Q. Do you know whether there is any proportion in the case of particular searches between the legal fees for making a search and this charge, which is outside of and extra to the legal fees ?

A. Well, that depends upon the time which it takes to make the search ; sometimes the search will take a man the whole night to make it and he will charge according to the time.

Q. Does not the extra charge ordinarily exceed the legitimate or legal charge ?

A. It does on small searches, yes, sir.

Q. Take searches by and large, Mr. Barre, will not the charge which is called extra exceed the statutory fee—fees as established by law ?

A. Well, I never looked into that carefully, but I think it will be about double fees—that is the extra will be about as much as the fees; that is, on extra searches.

Q. Extra searches are 75, possibly 75 per cent. of the entire number?

A. Not to exceed that.

Q. Well, the extra searches are ordinarily the searches which involve the large amount, are they not?

A. Oh, no, sir; the bulk of them are the small ones.

Q. Do you know anything about the payments made for special facilities in the office?

A. I never heard of such a case.

Q. Do you know anything about the arrangement between the Title Guarantee Company and the office?

A. I do not, sir.

Q. Have you had anything to do with making the arrangement under which their work is being done in the office?

A. No, sir.

Q. Who did that?

A. If there was any made at all, it was made by Mr. Murtha.

Q. Are you able to state what part of the \$68,916.32 received in 1886 by the office came from records, and what part from searches?

A. No, sir. I never kept them separate. It is entered on the cash book as received every day—deeds, mortgages and searches.

Q. How many libers of deeds and mortgages embrace the record of 1886?

A. I never looked, sir.

Q. About how many?

A. I could not say. I could not form an idea. I could not swear within ten of each kind.

Q. Can you give the range, the limits between which the number will be?

A. I cannot. If I knew you wanted that I could have brought it over very handily.

Q. What knowledge have you about the revenue of the office prior to 1886?

A. I was not there three years prior to that. I was not connected with the office.

Q. I do not limit the inquiry to these three years; I cover the entire time with which you have been connected with the office?

A. You want the amount of the receipts?

Q. Yes, I shall ask you that.

A. I don't recollect; it is not in my mind now.

Q. What have you to say as to whether the year 1886 was a good or bad year, I mean good or bad for the amount that went to the Register?

A. I think it was extra good.

Q. Haven't you known the amount to be considerably more than that in earlier years?

A. No, sir; I have known it to be one-third less.

Q. Do you mean to say that you have never known it to be more?

A. Yes, sir; I do mean that; that is something I can swear to, because I kept the accounts myself.

Q. Who can inform the Committee what the amount of revenue was during the three years preceding Register Murtha's term?

A. I can't tell you, sir, unless Mr. Richards himself, and he is in Europe; he kept his own books, so I understood.

Q. When did he go to Europe?

A. I can't tell you now; I think six weeks or two months ago—six weeks, I guess.

Q. Are you acquainted with Colonel Richards?

A. Yes, sir.

Q. Is it a fact that when he ceased to be Register he took away the books which showed the receipts of the office during his term?

A. I can't tell you what he did with the books.

Q. Have any been found in the office since Richards' time?

A. No, sir; I have never seen any of Richards' books. Excuse me, I think that Colonel Richards has only been gone about two weeks.

Q. Isn't the time less than two weeks?

A. I think I can find out. It strikes me that he was to sail on Saturday two weeks ago, and the ship was delayed on account of the strike, and he didn't sail, I think, until Sunday night or Monday morning.

Q. Have you any knowledge or information where the books of Colonel Richards' term are kept?

A. I have not the slightest.

Q. Do you know Captain Doyle, of whom Senator Murtha spoke?

A. Yes, sir.

Q. Was he in the office during Richards' term?

A. Yes, sir; for three years.

Q. Is he now in the room?

A. He is.

Francis Doyle, being duly sworn and examined as a witness, testifies as follows:

BY MR. PARSONS: Q. What is your position at the present time in the office of Register of Deeds in this county?

A. Assistant Deputy Register.

Q. How long have you been connected with the office?

A. Since 1868.

Q. Have you always held the same position?

A. No, sir.

Q. What positions have you held?

A. Collector and Deputy — Deputy under Colonel Richards.

Q. Have you ever held the position of searcher?

A. No, sir.

Q. What was your position during the three years preceeding Register Murtha's term?

A. Deputy Register.

Q. Who was then Register?

A. Samuel Richards.

Q. When last did you see Mr. Richards?

A. In the neighborhood of two or three weeks ago.

Q. Do you know he has gone abroad?

A. He told me he was going the last time I saw him.

Q. During his three years was there kept a record showing the receipts of the office and its expenses?

A. Colonel Richards kept the books himself.

Q. Do you mean that he kept them personally?

A. Yes, sir.

Q. Who received the moneys during that time?

A. I did.

Q. Did you make any entry of the moneys received by you?

A. Colonel Richards did that himself.

Q. At the time the moneys were received or at the end of the day?

A. At the end of the day.

Q. What record did you keep?

A. I had a memorandum of every deed and mortgage that was received in our office.

Q. From what did Mr. Richards take the amounts entered in the books?

A. From the papers.

Q. From those papers themselves?

A. Yes, sir.

Q. What memorandum was made of money received for searches?

A. A memorandum on pieces of blank paper.

Q. Made by you?

A. No, by an assistant I had there.

Q. Do you know of any way in which it can be ascertained what the receipts of the offices were during the three years preceding 1886?

A. I do not. Colonel Richards is not here. I have not seen his books. He took them right away after Senator Murtha came in.

Q. Have you such information as enables you to state whether the amount in 1885 was greater or less than in 1886?

A. I do not know the amount.

Q. Can you give no information about those three years?

A. I cannot.

Q. Is there anyone in the absence of Colonel Richards who can tell us ?

A. No one that I know of.

Daniel M. Tredwell, being duly sworn and examined as a witness, testifies as follows :

BY MR. PARSONS: Q. Mr. Tredwell, are you connected with the office of the Clerk of Kings County ?

A. Yes, sir.

Q. In what capacity ?

A. As a searcher.

Q. How long have you been connected with the office ?

A. About thirty-six years.

Q. During all that time as a searcher ?

A. No, sir.

Q. What other positions have you held in the office ?

A I have been clerk of the various courts—the County Court, and Supreme Court and Sessions. I have occupied those positions.

Q. Were the duties of those positions outside of the office ?

Q. No, sir ; they were inside of the office.

Q. How long have you held the position of searcher ?

A. About twenty two years.

Q. Continually ?

A. Yes, sir.

Q. Is there any grade of position among the searchers, or do they all stand on a par for position ?

A. All on a par.

Q. That is, you held no higher position than that which is held by the others ?

A. No, sir.

Q. What compensation, or rather under what arrangement with the County Clerk do you hold your position ?

A. Well, I don't know that I thoroughly understand how I am to understand that question. He employs me as searcher.

Q. At a fixed rate of compensation ?

A. Yes, sir.

Q. I will ask you first, is that the same rate of compensation which applies in the case of all the searchers?

A. It is.

Q. What compensation is received by the searchers in excess of this \$30 a week?

A. None from the clerk.

Q. My question was general?

A. That I do not know.

Q. Are we to understand, Mr. Tredwell, that you discharge all the duties of your position as searcher, receiving no other compensation than \$30 a week?

A. That is all I receive for the service I render the clerk.

Q. During the examination of Mr. Ranken and of Mr. Barnard, his assistant, yesterday, it became disclosed that there was in the office a system of making or having paid what were called extra charges for searches?

A. Yes, sir.

Q. Do you know anything about that department of the business?

A. I do, sir.

Q. Will you be kind enough to explain it to the Committee?

A. The searches put in the office usually are made returnable in about ten days, sometimes more, sometimes less. I have known them to be thirty days behind. At present I think we are about eight days behind. Persons who want searches done in a hurry, where it is necessary to have their titles passed immediately, are willing to pay the searchers extra compensation for doing these searches out of office hours. That is an arrangement made between the parties and the searcher entirely separate. The Clerk has nothing to do with it. The facilities we have for these are from a set of books that we have; the private indices, patent indices, and the searches are made from those, and we get our compensation, whatever we agree to with the parties having them made.

Q. Who receives the compensation? I wish to know to whom in the first instance the payment is actually made?

A. When searches are paid for at the desk, Mr. Barnard

receives the money with the other fee, with the Clerk's fee.

Q. Is a separate charge made for the extra amount and for the legal amount ?

A. Yes, sir.

Q. Does that appear upon the search ?

A. It does not.

Q. How is Mr. Barnard informed of the several amounts ?

A. There is a memorandum book in which the searchers enter these searches with the official fees and the extra fees.

Q. Are these books which you speak of as private used indiscriminately, whether the searches are made hurriedly or take their regular course ?

A. Yes, sir, we use them for the benefit of the Clerk as well as ourselves. They are not, however, the property of the Clerk; they belong to the searchers.

Q. Is it a fact, Mr. Tredwell, that these books have been made up by the searchers during the time they have held their positions as such and in the prosecution of their duties in the office, under the County Clerk ?

A. I don't exactly understand your question. Do you mean if these are made up in the time that properly belongs to the Clerk, or our own time ?

Q. If you will tell me how these books which you speak of as private are prepared, and when, then we shall be able to determine the matter ?

A. They were made up in hours that belonged to us outside of the time in which we were employed by the Clerk. We employ assistants continually, to keep them up to the present time, and do now—have men at work at this time keeping those indices down to date.

Q. Do you not do work upon them yourself ?

A. We do.

Q. Who is this assistant you employ specifically for the purpose ?

A. He is merely a man who does the copying for us. He is not a skilled man at the business at all. He is a neat, careful writer, and does the copying.

Q. Do you mean that he transcribes ?

A. Transcribes ; yes.

Q. The particular inquiry which we desire to address to you, Mr. Tredwell, is to ascertain the amount of these extra charges during 1886 ; what information upon that subject can you furnish the Committee ?

A. I have some information upon it ; I don't know how much I received. I never kept an account of it. The accounts I have are sufficient for my own use, but if I had supposed I was to come before such a tribunal as this, I would probably have kept my accounts in a different way.

Q. Is it possible to ascertain the amount of these extra charges for 1886 ?

A. I think it is.

Q. In what way ?

A. I think the book will show it—the book in which the searches are entered.

Q. Will it show the aggregate amount received by all the searchers ?

A. I think it will.

Q. In whose possession is that book ?

A. The Clerk's.

Q. Mr. Ranken ?

A. Perhaps not, individually, but his or the deputy's.

Q. Is it not more particularly in charge of one person ?

A. I don't understand you.

Q. To whom can we send to get that book ?

A. To Mr. Ranken.

Q. When last did you examine the footings of that book ?

A. I never examined them at all.

Q. Who makes the entries ?

A. Each searcher makes his own entry.

Q. Daily ?

A. As we make searches. The searches, when they are finished and entered in a book, the official fee in one place and the extra fee in another. the names of the attorneys for whom the search is made and the parties against whom they are made, and the fees are entered there.

Q. Is the amount footed up from time to time ?

A. I never knew it, unless the clerk or his deputy has

the curiosity to know how much; I never had the curiosity.

Q. Have you any idea in your own mind about the amount for 1886?

A. I have not.

Q. The aggregate amount?

A. Do you mean for all the searchers or for myself?

Q. I mean for all the searchers?

A. I have not.

Q. Mr. Tredwell, the point is how much was paid to the office for searches during 1886; how much consisted of the legal or statutory charge, and what was the amount paid in excess of that; are you able to give that information either accurately or approximately?

A. I am perfectly willing to give you that information, but I have no idea of the amount.

Q. Are you able to say that the extra amount was less than \$20,000 for 1886?

A. Well, I really don't know what it was.

Q. Are you able to say it was less than \$50,000?

A. Yes, sir.

Q. Is there not some point between \$20,000 and \$50,000 for 1886 of which you can say approximately it was the amount?

A. No; I will not name any amount.

Q. May I ask you whether you are sure that the aggregate amount for 1886 was less than \$30,000?

A. I don't think it was \$30,000.

Q. Can you speak with confidence as to \$40,000?

A. Yes; it was not \$40,000.

Q. Mr. Barnard stated, and I will ask you whether such is the fact, that no part of this amount goes to the County Clerk, but is divided between the searchers and himself, he receiving 20 per cent. and the searchers the residue?

A. That is correct.

Charles B. Farley, being duly sworn and examined a witness, testified as follows :

By MR. PARSONS : Q. Are you Sheriff of this County ?

A. Yes, sir.

Q. How long have you held that office ?

A. Two years and two months.

Q. Does that mean your term of office began January 1, 1885 ?

A. Yes, sir.

Q. That was the beginning of your connection with the Sheriff's office ?

A. Yes, sir.

Q. Who preceded you as Sheriff ?

A. Col. Stegman.

Q. Will you inform the Committee, please, of whom the staff of the office consists, naming the persons and the positions in the office held by them ?

A. Yes, sir. The Under Sheriff is Mr. Hugh McLaughlin ; my counsel is counsellor Anthony Barrett ; my Chief Clerk is Mr. Francis H. McGuire ; the Equity Clerk is Mr. Franklin McElroy ; my deputies are Charles A. Bartow, Charles Goodhugh and William Cunningham.

Q. If there are others, be kind enough to name them ?

A. The Warden of the Jail is M. V. B. Burrows ; the van drivers, James Cassidy ; Joseph Evans ; P. Shevlin ; Thomas Finney, he is a keeper ; Patrick Urell.

Q. Have you now completed the list ?

A. No, sir ; Henry Schnitzer.

Q. Are these persons whom you are now referring to all connected with the jail ?

A. Yes, sir.

Q. Have you completed the list of subordinates whose positions are in your office ?

A. Yes, sir.

Q. As I understand, the office staff consists under yourself, of an Under Sheriff, of three Deputies, and of an Equity Clerk.

A. And the counsel and the chief clerk.

Q. Is your office a salaried office or a feed office ?

A. A fee office.

Q. From what sources is the revenue of the office derived?

A. Well, I receive it from fees, foreclosure cases ; I have a contract with the County for feeding prisoners ; I have a contract with the County for transferring prisoners from the different Courts to the penitentiary and to the jail.

Q. Are there fees to the Sheriff for compelling the attendance of jurors in the Courts?

A. No, sir ; not that I know of.

Q. What record is kept in your office of the fees received there?

A. The Under Sheriff has got the record of all fees taken in the office as far as papers are concerned, and all mandamuses of the Courts that come to the office. The Under Sheriff gets those.

Q. Is that the account of all the fees paid to the Sheriff ?

A. Yes, sir, every dollar.

By MR. COE. Q. Are there not term fees and fees for lockages, and other statutory fees that you receive besides what you have named ?

A. Yes, sir.

Q. Going into your account with the Board of Supervisors ?

A. Yes, sir. I receive poundages and lockages.

By MR. PARSONS : Q. Will you oblige me by stating whether the Under Sheriff or either of your subordinates is better informed upon this subject of the fees of your office than you are ?

A. Yes, sir.

Q. Who knows most about that ?

A. Well, counsel, my Under-Sheriff understands all my office business.

Q. What is his name ?

A. Hugh McLaughlin.

Q. How long has he held that position ?

A. Since I have been Sheriff.

Q. Was there an entire change of the office staff when you became Sheriff ?

A. Yes, sir.

Q. Who disburses the expenses of the office?

A. The Under Sheriff.

Q. Have you any knowledge about the amount of fees which come to the office during the course of the year—which did come to the office in 1885 and again in 1886?

A. I have for 1886, I think.

Q. What do you understand to have been the gross amount of the fees received for 1886?

A. I think it was seventy odd thousand dollars.

Q. What was the odd, how much?

A. I have got a paper here that tells. (Witness produces statement.)

MR. GOODRICH: We will take that paper and read it for you.

MR. PARSONS (resuming): Q. Do you understand that this paper gives an accurate statement of the fees and disbursements of your office during the year 1886?

A. Yes, sir.

MR. PARSONS: I will then read it.

"Total proceeds from Sheriff's Office and jail from January 1st, 1886, to December 31st, 1886.	\$67,647.31
Total expenditures running Sheriff's Office and jail from January 1, 1886, to December 31, 1886....	37,364.69
Balance ...	\$30,282.62

Of this balance \$9,000 is for conveying prisoners to and from the Jail and Penitentiary to the several courts.

Contracts awarded by the City and County, showing actual proceeds of Sheriff for jail and office, 1886, to be..... \$21,282.62."

Q. Do you understand that this statement means that the net income received by the Sheriff over all expenses of every kind for 1886 was \$21,282.62?

A. Yes, sir.

BY MR. ARNOLD: Q. Mr. Parsons, will you please read the statement after the total expenditures, \$37,364.69?

MR. PARSONS: "Balance \$30,282.62." The rest is confusing, and I am going to straighten that out.

BY MR. PARSONS : Q. Sheriff Farley, is not this the fact, that the net amount actually received by you over all expenses is \$30,282.62?"

A. Yes, sir.

Q. The \$9,000, being part of that and representing the amount paid for conveying the prisoners?

A. Yes, sir; that is proper.

Q. So that the true net amount is \$30,282.62?

A. Yes, sir.

Q. What certainty is there that the amount received was not larger than that; how can you be sure that the amount was not very much larger than that?

A. I am sure that my Under Sheriff—I have the utmost confidence in the gentleman, and I know if there was anything there that he would turn it in to me.

Q. Rather what I wish to know is whether there may not be sources of income—fees coming from directions other than those which are represented by that written statement. Are there not outside fees of some kind or other?

A. Well, I guess there are, to a certain extent. There might be some fees in the Sheriff's office through the deputy, that I have no control of, you know, counsel, to a certain extent.

Q. Do you not receive some share of any outside fees which are received by the deputies?

A. No, sir.

Q. Do you mean that for this outside compensation they make their own arrangements?

A. Yes, sir.

Q. And get all the benefits from them?

A. Yes, sir.

Q. Does this item of "Expenditures, \$37,364.69" include feeding the prisoners?

A. Yes, sir, it includes everything.

Q. Is the item of expenses of the jail a large one?

A. Yes, sir, it is a pretty good item.

Q. Are you able to separate that from the other expenditures and state how much that comes to alone ?

A. I don't think I could, counsel.

Q. Will Mr. McLaughlin be likely to have that information ?

A. Yes, sir, I think he would. I am sure he would.

BY MR. COLE : Q. I should like to know whether that is the only expense, the only material expense that you know of ; the feeding the prisoners. You have your light and fuel furnished you, do you not ?

A. Yes, sir.

Q. And the boarding of the prisoners is the principal expense ?

A. Yes, sir.

BY MR. BACON : Q. Do you pay these subordinates ?

A. Yes, sir, all but the Deputy Sheriff. That is understood.

Q. He gets no pay ?

A. No, sir.

Q. You mean he works for love ?

A. He works for fees on the outside. There is no working for love just now.

BY MR. PARSONS : Q. Sheriff Farley, have you been here this morning during the examination of Register Murtha and County Clerk Ranken ?

A. Yes, sir, a portion of the time.

Q. Were you here when questions were put to them about the disposition of the emoluments of their office which they declined to answer ?

A. Yes, sir ; I think I was.

Q. Are you willing to tell what becomes of the net income of the Sheriff's office ?

A. Yes, sir ; I am willing to tell where that is.

Q. What does become of the net amount received by the Sheriff, which you say for 1886 amounted to \$30,282.62 ?

A. Well, I deposit that in the bank through my Under Sheriff ; deposited in my name in the bank and I hold it.

Q. What eventually becomes of it ?

A. I generally take charge of that myself. I don't let that go out.

BY MR. BACON : Q. Do you draw it out by your own checks ?

A. Yes, sir.

Q. Can you read and write !

A. Yes, sir ; that is my signature there.

Q. Can you read that writing (referring to statement of income) ?

A. I can read a portion of it.

Q. Can you read it all ?

A. Not the whole of it.

BY MR. PARSONS : Q. Are you able to state and are you willing to state whether any, and, if so, what part of this amount goes for party or political purposes, or goes to persons other than yourself ?

A. Well, counsellor, I should say not a dollar. I am sure that not a dollar goes to any person or party outside of myself.

Q. Do you not make subscriptions for party purposes ?

A. Well, I have.

Q. Have you done so since you were Sheriff ?

A. Well, yes.

Q. Are you willing to state the amount ?

A. Well, that is a private matter. I should not think the counsel ought to ask me that.

Q. I wish you to state what was the amount thus paid by you for the year 1886 ?

A. To where ?

Q. To the campaign fund or to any party issue ?

A. That is part of my private matter, too, ain't it, counsellor ?

Q. I think not, Sheriff Farley ; so having answered your question, will you be kind enough to answer mine, and state the amount ?

A. I decline to answer, counsellor, on the ground that that is pertaining personally to myself. The other gentlemen objected, and I don't see why I should answer and get in any trouble.

Q. Do you keep any record, any books which contain entries showing the amount paid by you for campaign purposes or for party uses in any way?

A. No, sir; I never keep them.

Q. If you had the mind to do it, I suppose you could ascertain the amount for 1886, could you not?

A. Well, I don't know. I think it would be a very bad document to hold.

MR. PARSONS: I will take the action of the Committee on questions similar to those put to Mr. Ranken and Mr. Murtha; and in that view I ask Sheriff Farley to state what amount was paid by him during 1886 towards a campaign fund, or for any other party purposes?

A. I don't think I can answer that.

Q. Does that mean you are unable or that you decline?

A. Well, I decline to answer on account that I think that it is a private matter of my own.

BY CHAIRMAN BACON: Q. The Committee ask you the same question, Mr. Farley?

A. I decline to answer.

CHAIRMAN BACON: The Committee instruct you to answer the question directly.

A. Well, with all due respect to the Committee, I decline.

BY MR. PARSONS: Q. We ask you to produce your check book which contains the entries of payments made for such purposes. Do you decline to do that?

A. Yes, sir.

MR. PARSONS: We ask the Committee to instruct the witness to produce that check book.

CHAIRMAN BACON: The Committee ask you to produce the book mentioned by the counsel, and direct you to produce it.

MR. GREENE: That is, a majority of the Committee direct that.

WITNESS: Well, gentlemen, that is a private matter. I

say that is a private matter, and I decline to. I do not insult the Committee at all. I simply decline.

BY MR. PARSONS: Q. What is the mode of compensation of your subordinates. Specify those who receive salaries, and those who are compensated in other ways?

A. The only persons or parties that draw a salary—I have it here on a piece of paper for the Committee.

MR. PARSONS: If you will let me have that I will read it.

(Witness presents the paper to counsel.)

MR. PARSONS (reads): “Hugh McLaughlin, Under-Sheriff, fees; Anthony Barrett, counsel, \$2,500; Francis H. McGuire, Chief Clerk, \$1,800.

“Jail: M. V. B. Burrows, Warden, \$2,500; Joseph Evans, keeper, \$1,200; James Cassidy, keeper, \$1,200; Patrick Shevlin, keeper, \$1,000; G. Kinney, keeper, \$1,000; G. Urell, keeper, \$1,000; Henry Schnitzer, keeper, \$600; Henry Smith, cook, \$500; Margaret Cunningham, matron, \$500. Total, \$15,600.”

WITNESS: There is one other name that I forgot to add to that. Will my Under Sheriff please put it on for me.

Q. Whom do you mean?

A. Mary Malone.

Q. How much is she paid?

A. I pay her an average of about ten dollars a month and board.

Q. Are all these fixed amounts paid by you?

A. Yes, sir; paid by my check.

Q. Are they all paid by you from the fees which come from the office?

A. Yes, sir.

Q. What is the arrangement between you and Hugh McLaughlin, whom you describe as Under Sheriff?

A. The understanding between the Under Sheriff and myself is that he takes charge of the office and the deputies and all connected with the office. That is all.

Q. Without compensation?

A. Yes, sir.

Q. Without compensation ?

A. Yes, sir. The compensation is the revenue that he receives from the deputies in the Sheriff's office.

Q. By this do you mean that no moneys go to Mr. Hugh McLaughlin from you ?

A. No, sir.

Q. The moneys that he receives go to him before anything comes to you. Is that the fact ?

A. The fees of the office. That has nothing to do with my revenue in the office, you know, counsellor.

Q. Does he not receive all the fees of the office ?

A. Yes, sir.

Q. Some he turns over to you ?

A. Yes, sir.

Q. And some he retains ?

A. Yes, sir.

Q. Do you know what is the amount retained by him ?

A. Well, no ; I couldn't say without that paper. That paper foots it up ; the total amount of the office and the total amount of the prison. I don't know how I can answer that, counsellor.

Q. Do you depend upon Under Sheriff McLaughlin absolutely for keeping an account of the fees received at your office ?

A. Yes, sir.

Q. When did you appoint Mr. Hugh McLaughlin to be your Under Sheriff ?

A. I appointed him on January 1st to take charge of my office.

Q. When did you make the arrangement with him ; how long before the first of January ?

A. About ten days.

Q. When were you elected Sheriff ?

A. I was elected Sheriff in the fall of 1884.

Q. Was that in November ?

A. Yes, sir.

Q. When did you first speak with Mr. McLaughlin or with anybody about his being your Under Sheriff ?

A. Well, a great many wanted to be Under Sheriff, and I

went and asked Mr. McLaughlin if he wouldn't please ~~to~~ accept the position of Under Sheriff under me; and Mr. McLaughlin told me he was not seeking the place, but ~~if~~ he could be of any benefit to me that he would come ~~and~~ be my Under Sheriff. I thanked him very kindly, ~~and~~ I told him that it was a favor I would always remember ~~to~~ him, if he would only come back as Under Sheriff to ~~me~~. There was other people looking for the place and I didn't think as much of them. I didn't know them as long as I knew Mr. McLaughlin.

Q. Did this conversation take place before or after election?

A. I guess about a week or two after the election.

Q. Was that the first time that his name was mentioned to be Under Sheriff?

A. Yes, sir.

Q. Had Mr. McLaughlin been connected with the Sheriff's office previous to that?

A. Yes, sir.

Q. When?

A. Before I remember, I guess. I was not much interested in politics at that time. Mr. McLaughlin was connected with the Sheriff's office about twenty-five years ago.

Q. When you heard this conversation with Mr. McLaughlin was nothing said about the mode in which he should be paid?

A. No, sir. When I spoke to Mr. McLaughlin he did not wish to accept, and I told him that I would be willing to pay him a nice salary; and Mr. McLaughlin told me that he didn't wish no salary, that he would take the place if it was a benefit to me, and to receive the fees that Under Sheriffs had before.

Q. Did you at that time know anything about the arrangement which previously had prevailed by which the under sheriffs received fees?

A. No, sir, I was not posted. I knowed nothing about the office, good, bad or indifferent, until I was elected.

Q. Is it then the fact that you have no knowledge and no information about the total amount of fees which come to your office? All you know is what you received yourself?

A. What I received from the Under Sheriff to be sure. I received every dollar in that office.

Q. You do not receive the fees that go to Hugh McLaughlin?

A. No, sir; only the legal fees of my office, laid down by the statute.

Q. Are then these fees which the Under Sheriff receives regarded by you as illegal fees?

A. No, sir.

Q. What do they come from?

A. They must come from the revenue on the outside. That I don't handle at all, good, bad or indifferent.

BY CHAIRMAN BACON: Q. Do you keep a bank account?

A. Yes, sir.

Q. Where is it?

A. In the Trust Company.

Q. Do you sign all the checks?

A. Yes, sir, I do.

Q. Do you write the bodies of them?

A. No, sir.

Q. Who does that?

A. Mr. McLaughlin writes the body of the checks at times.

Q. Do you often sign them in blank?

A. No, sir; I never done that.

BY MR. GREENE: Q. You were in the Union service?

A. Yes, sir.

Q. What age were you when you enlisted?

A. When I was about eighteen years of age.

Q. From this city?

A. Yes, sir.

Q. What regiment?

A. The 14th Brooklyn.

BY MR. GREENE: Q. I ask this in justice to you because of the testimony in reference to your want of education.

Hugh McLaughlin, being duly sworn and examined as a witness, testifies as follows :

BY MR. PARSONS: Q. How long have you been connected with the Sheriff's office of Kings County ?

A. Do you mean lately, or altogether ?

Q. I wish to cover the entire period ?

A. I don't know. I was first with Jerome Ryerson in 1856, and with George Remsen in 1858 and 1859.

Q. Do you remember the years ?

A. I think the first was in 1855 or 1856.

Q. And the next time ?

A. Was under Remsen.

Q. How long and when ?

A. I think either 1858 or 1859.

Q. For how long at that time ?

A. Well, I stayed with Mr. Remsen until he died, which was, I think, part of the second year of his office. Then there was a gentleman appointed by the Governor and we all went out. Then George Remsen was elected, and I think I stayed there—no, I think it was in 1857, with Remsen, and I had a little dispute with him and I left him and went into the Custom House. Then I remained out of the Sheriff's office until 1885.

Q. Coming in then with Sheriff Farley ?

A. Yes, sir.

Q. What are the duties in the office ?

A. My duty in the office is to superintend the employees of the office and the distributing of all the papers that come in there to the deputies, and seeing that every man performs his duties, and the Equity Department, the chief clerk and the deputy, and to receive all the fees that come over the desk and make an entry of them.

Q. What fees are there that do not come over the desk ?

A. Well, the fees that do not come over the desk are fees that the deputies are entitled to on the papers that come there ; the attorneys' papers and other papers. They are paid poundage on all papers except replevins, as there is no amount fixed by

Code. The lawyers and the deputies, they agree on that themselves generally and if they do not agree they go to the Court and have the amount taxed. If there is an execution entered for \$100 or \$200, and at 2½ per cent. one half goes to the Sheriff and the other half is divided between the Sheriff and the Under Sheriff. It does not go over the desk at all.

Q. Who made up the statement from which Sheriff Farley has testified, showing as a result \$67,647.31 of proceeds of the office and jail in 1886, and \$37,364.69 as the expenditures during the same period ?

A. I made that up with a little help, sir.

Q. What did you make it up from ?

A. I took it from my book.

Q. What book ?

A. The book of entries of all the moneys taken in and all the moneys paid out.

Q. Is there one book kept which should contain all those entries ?

A. No, sir.

Q. Several books ?

A. Only two.

Q. How are those books described ?

A. What do you mean by that, counsellor?

Q. Do you call them cash books? What is the name you give them ?

A. I call them an entry book of my own for entering up money taken in by the Sheriff from all sources. I have two books. I keep the jail account by itself and the office account by itself.

Q. That makes the difference; one contains entries in reference to the jail and the other contains entries in reference to other matters ?

A. Yes, sir.

Q. Where are those books now ?

A. They are in my office, sir.

Q. How long will it take you to have them here ?

A. It won't take a great while.

Q. Will you send for them ?

A. I don't know whether there is anybody here or not.

MR. GOODRICH : Mr. Fuller will go for them.

BY MR. PARSONS (resuming): Q. Will those books show in detail the jail expenses ?

A. I presume they will, nearabouts.

Q. Where does the money come from that pays the jail expenses ?

A. The money that pays the jail expenses comes from the City and County.

Q. Do you know what the total amount received from the City and County was during 1886 for jail expenses ?

A. For jail expenses—no ; I think not. I figured that up yesterday by calling out the amounts to my son-in-law. I think the whole amount from the County of that account was something like \$53,000. That is including the contracts and money drawn from the County Treasury for board of prisoners and conveying the prisoners.

Q. Does that form any part of this sum of \$67,647.31. which is mentioned on this paper ?

A. Yes, sir ; it is the largest part of it. The balance is only the fees that make it up. I made up the whole amount. The subpoena that was served on me called for that. I figured it all up in that way, and the largest amount is the jail account. The Sheriff's office amounts to nothing of itself.

Q. Explain to the Committee this contract under which the Sheriff is allowed \$8,000 for conveying prisoners ?

A. Well, one contract is with the City for \$6,500. That is for bringing prisoners from all the Police Justice's Courts throughout the City and Williamsburgh to the jail, and then bringing them to the Court and back to the jail, when on short sentences. The other contract of \$2,500 is with the County for conveying prisoners from the jail to the several Courts to plead, bringing them up for sentence, and then bringing them back to jail or the penitentiary, or wherever they are committed. After sentence, they are carried to the penitentiary.

Q. Does this \$9,000 for conveying prisoners, and the other

sum which was mentioned by you as jail expenses, embrace all the moneys which the County pays to the Sheriff in the course of the year?

A. I should judge it does. I don't know of any other. It includes the whole of it; yes, sir; because it includes everything going to the Sheriff and that he is entitled to; cases that go on the calendars of the several Courts, in which the County Clerk collects, and the Clerk of the City Court; these cases on the calendar. I sometimes receive from the City Court \$35 or \$40 a month, and sometimes at the end of six months we get from the County Clerk, maybe \$250, and I enter that on the book and foot the whole thing up. I keep an account on one side of the amount taken in, and on the other side the expenditures.

Q. State, if you please, what source of income the Sheriff has, not including money coming to the deputies, and outside of the money paid by the County?

A. Nothing else except on executions, replevins and attachments, sales of real estate under foreclosures; dispossess warrants, putting a man in possession of land. Sometimes the Sheriff has a revenue under a State law for making a return to the Secretary of State; he has an income from making returns under a State law to the Secretary of State, which the Board of Supervisors pay. I guess it is a charge to the County. Then there is another matter, of people committed for a long term, beyond three years, that the Sheriff makes his return to the Secretary of State for every year, amounting to—oh, I don't know; I guess this year about \$35, and we would like to get rid of the trouble.

Q. What is the mode of doing the business of the office in reference to turning the money over to the Sheriff himself?

A. Well, the mode of turning the money over to the Sheriff himself is done in this way—that at different periods the Sheriff comes in and I draw a check on the bank, payable to his order, and assign it to the money in the office. The moneys payable to the jail—I draw the checks for the payments there, for the baker, the butcher and the beef man and the horeshoer and the honest man and the salaries. I

draw the checks and send them down to him to sign. I deposit the money in the Trust Company in connection with the jail to his credit, which I could not draw out. The money I deposit in the bank. I do that to his credit as Under Sheriff to draw out by his authority, because I deposit money there sometimes belonging to different lawyers and other people who come in and I can't send to the jail, and I would be ready to pay the money to them.

Q. Where are the books kept of the Trust Company and the banks?

A. They are in his office.

Q. Who makes the entries in those books?

A. The bank people.

Q. Do you not fill up the checks?

A. Yes, sir.

Q. Are there not stub entries kept? Are there not entries of the checks filled up in the stub of the check book?

A. Yes, sir.

Q. Who keeps those entries?

A. I do; I keep it on a book as well.

Q. How are the moneys drawn from the Trust Company,—by check?

A. Yes, sir.

Q. Is there a stub entry of those checks?

A. Yes, sir.

Q. Who keeps that?

A. I do.

Q. So there are check books to show all the money that goes into the Trust Company and goes into the bank, and will show all the checks drawn against those moneys?

A. Yes, sir.

Q. Does the Sheriff draw checks for his personal uses from the Trust Company and from the bank?

A. Yes, sir.

Q. So that all the official payments and all the official receipts appear in the same check books, which show the amounts drawn by the Sheriff personally?

A. Yes, sir.

Q. And those books are all kept by you?

A. Yes, sir.

Q. Have you here the books from which was made up the statement showing \$30,282,62 as the net income for 1886?

A. Yes, sir.

MR. PARSONS: I will look at it, if you please.

(Witness presents book to counsel.)

Q. I observe in the first of these books that I look at, purporting to be cash account with the Brooklyn Trust Company, that there are a series of entries of cash received from the County Treasurer. What does that mean?

A. That means the monthly bills for conveying prisoners, together with the board bills, and returns from the Secretary of State in some instances, and examined by the Board of Supervisors and passed by them for payment.

Q. In one of these books there is a series of items reading "by cash from chief clerks." What do they represent?

A. That is an every day account.

Q. What does that amount come from?

A. From all papers furnished there. Executions, replevins, attachments, and sometimes fees paid in; that the Deputy collects an execution and he pays one-half of the fees over the desk to the clerk and the other half he keeps, except what he gives me.

Q. Now go to the fees received by the Deputy or anybody at the office outside of those entered in this book. What record of that is kept?

A. None at all, sir. None that I know of.

Q. How much did you receive from that source during 1886?

A. I don't know.

Q. Do you not deposit the money?

A. No, sir.

Q. What do you do with it?

A. Well, I spend it in many ways. I may make a deposit. I will say as far as the Sheriff's office is concerned I don't care about that at all. I don't care about the income. I have a large income outside of that and I make

a deposit when I want to. I may make a deposit of four or five thousand dollars and very often the Deputy will give me \$30 or \$40.

Q. What I wish to ascertain is the gross receipts of the Sheriff's office in a year, and we will take the year 1886?

A. I have given it to you on that paper as near as I can get at it. The expenditures and proceeds.

Q. That paper does not show all the payments which were received by the deputies and are divided between you and them?

A. How is the Sheriff going to get at that? That is no part of his business. They take such fees and have for years.

Q. I want to know the amount that comes to the Under Sheriff and the deputies?

A. I never kept a record of that. I couldn't tell you. I don't know what they give me. As I tell you, sometimes they would hand me money at the end of the month and I would put it in my pocket, and sometimes they would hand it to me in the week. I never kept any track of what I got.

Q. Do you mean to be understood there are no means of ascertaining how much that came to during the year 1886?

A. Yes, sir; that is what I mean to say to the Committee, that to my knowledge I do not. The only reason that I went into that office was to take care of the Sheriff and see that he got proper bonds, and that every dollar that belongs to him he should get, and that all his just debts should be paid.

Q. I want you to stick to the question I have asked you.

A. I don't know anything about that any more than you do. I cannot answer what the deputies got outside and I can't tell what they gave me. I can't tell you whether they gave me a thousand dollars in 1886 or three or four thousand dollars.

A. Can you tell whether they gave you fifteen or twenty thousand dollars?

A. Yes, sir; I can tell that. You bet I would know if I got that much.

Q. State your best judgment, what was the amount that thus came to you in 1886?

A. Well, if I was to give my opinion about it for 1886, to give my own judgment without knowing exactly how much I got from those men in 1886, it may reach from \$2,500 to \$3,000.

Q. Are you able to say the amount was certainly under \$5,000?

A. Yes, sir.

Q. Does that mean that this sum, which may be \$2,500 or \$3,000, and is certainly under \$5,000, is all that you got in the way of benefit out of the office during 1886?

A. Yes. I think it is.

Q. What is the ratio of division between you and the deputies?

A. Well, the first year they gave me one-fourth; and in 1886 they gave me one-half.

Q. Why was the change made?

A. Because one fourth amounted to so little it would not buy cigars and pay my travelling expenses.

Q. Tell me how much the little amount was that was received under the one-fourth arrangement?

Q. I don't know how much that was. I think for one or two months, it amounted somewheres in the neighborhood of \$60 or somewhere along there.

Q. Can you give any exact information on that subject?

A. No, sir; I cannot unless I had the figures down and I haven't got the figures.

Q. The figures do not exist?

A. No, sir.

Q. Is there any reason why no record is kept of these amounts?

A. Well, the only reason is I don't know what a man wants to keep a record for of the money he gets if he is going to spend it. What is the object? I don't understand the object myself, unless a man wants to make labor.

Q. How do you know you received your full share from the deputies?

A. I am obliged to take their word for it.

Q. Don't they keep any account?

A. Not that I know of.

Q. What is the principal source from which these receipts which come to the deputies is derived. Is it from executions?

A. Yes, sir; and attachments and replevins and other papers, as I say.

Q. These amounts are received in detailed items, so much for an execution in a particular suit and so much for a replevin process in some other suit?

A. Yes, sir.

Q. All of those suits or executions are entered in the Sheriff's books, are they not?

A. Yes, sir.

Q. Will not those same books show what amounts are paid against those proceedings?

A. No, sir; the Sheriff merely takes a memorandum. When a gentleman comes in with an execution there is merely put on the execution at the time it comes in the date of the month, and it is entered in the book. For instance, one coming in to to-day, the date of the month, execution against so and so, for some amount of money—

Q. How often are these divisions between you and the deputies made?

A. I can't answer that. Sometimes some of them come in there and it runs along for two or three months and hands me a twenty dollar bill. Pretty light paper. It don't amount to much.

Q. Under the arrangement in Kings County does the poundage go to the Sheriff or the deputy?

A. One-half goes to the Sheriff.

Q. Is that embraced in this figure of \$67,647.31?

A. Yes, sir.

Q. One-half of the poundage?

A. Yes, sir. Everything is entered in those books that goes to the Sheriff. The poundage and attachments and the contracts to feed the prisoners and everything.

Q. Is this the arrangement about the poundage, that

one-half goes to the Sheriff and the other half is divided between you and the deputies?

A. Yes, sir.

Q. The arrangement now being that you receive the same as the deputies do?

A. Yes, sir.

Q. But what that amount may be we cannot ascertain?

A. No, sir, I don't know of any way.

Q. Is there anybody that can give better information on the subject than you?

A. I don't know. I don't know whether the deputies keep an account or not. I can't answer that.

Q. Is there anybody that you know of who can give accurate information on that subject?

A. No, sir.

Q. You cannot, and nobody else, so far as you know?

A. No, sir, not that I know of.

Q. I wish you would state the circumstances under which you became Under Sheriff?

A. Well, I became Under Sheriff because Mr. Farley had known me for a great many years, and I had known him; and I was a fire commissioner in the Fire Department, had an appointment there and I did not desire to go in the office, and I said I would not go in there; and some friend advised me to go there, and he asked me to take it as his friend, and I went there merely to protect him if I possibly could, because the Sheriff's office is a dangerous office, and every man who has been in the office has been ruined. I went there to see that the papers were executed, that the bonds were regular, and were proper and sufficient and were good bonds, because the Sheriff is sued for eight or ten years after he goes out of office. For the office itself a man better be rid of it. The office amounts to nothing. It does not take in money enough to pay for a lawsuit when the Sheriff finds that he is on a bond and that he gets mulcted in some sum.

Q. When did you have conversation looking to your being Under Sheriff under Sheriff Farley?

A. I couldn't tell you that exactly. Some time prior to his going in. I think I was spoken to along somewhere

in December. I was going down South hunting, and they spoke to me about that before I went South ; and I think before I went away, I said I would decide when I came back, and I came back after three weeks.

Q. Who makes commitments of prisoners ?

A. The Judges.

Q. That means the Magistrates distributed through the city ?

A. Yes, sir, all the Judges. Sometimes the Police Justices, sometimes the Justice of Police and the County Judge. All the Judges in the City Court and the Court of Sessions, and the Supreme Court Judges sometimes.

Q. What are the commitment fees, what do they amount to ?

A. In the office ?

Q. I wish to ascertain what is the charge or fee for a commitment ?

A. Nothing in the office. We don't get them. When prisoners are committed by the Judges the man takes them down there under the contract ; but I don't know what the turnkey's fees are for locking up a prisoner.

Q. The point I am aiming at is whether it makes any difference to the Sheriff, the commitments being more or less. Does he receive compensation according to the number of commitments ?

A. No, sir. He receives compensation for the board of prisoners. It is better for the Sheriff the more they send to the jail, the better it pays him ; but he does not get any extra compensation for commitments. He takes them under that contract. He waits on the Court and he carts them from the jail under that contract, and if they are sent back he carts them back, and the more he has in the jail the better off he is.

Q. Explain how it is that the more prisoners there are in the jail the better it is for the Sheriff ?

A. Well, on the same principle that if you kept a boarding house and you had twenty boarders you could do better than if you had but two. You couldn't afford to pay the rent on two.

Q. It is the profit in the board then ?

A. Yes, sir. The Sheriff couldn't pay eight or ten men to keep three or four prisoners.

Q. The more boarders the Sheriff has the more are the profits of his boarding house?

A. The better it pays him, yes, sir.

Q. And whether the number be many or few, more or less, depends upon the commitments made by the Magistrates?

A. Yes, sir; it depends altogether upon the prisoners sent there by the Judges.

Q. How many Justices' Courts or offices are there for Kings County?

A. That is a question I ought to be able to answer but I don't know as I can. You mean Justices or Police Justices?

Q. Both?

A. The whole number?

Q. I mean to include everybody who makes commitments.

A. Well, if you mean to include the District Attorney too—

Q. If he is in the habit of making commitments.

A. Sometimes he sends people down there on a warrant if he can't find anybody to commit, on a warrant issued by him. I don't know; there is fifteen or sixteen altogether.

Q. Of those how many are Police Justices?

A. I don't know whether three or four. Massey and Walsh and Mayer; I think there are four. Kenna is one. That is four.

Q. Do you remember an act that was once passed to take the jail away from the Sheriff?

A. Yes, sir.

Q. What was the reason for that?

A. That I can't tell. I don't know the reason.

Q. What was the reason publicly proclaimed for it?

A. Oh, I think the reason was that the Sheriff made too much money I suppose.

Q. Made too much money out of the jail?

A. I suppose so.

Q. Describe the process by which a Sheriff can make too much money out of the jail?

A. How can I describe that?

Q. Don't you know?

A. No, sir.

Q. Who does?

A. I don't know anybody that knows better than you. I don't know. You can figure it up better than me, I guess. I never knew a man that was Sheriff that knew that he made too much money out of the jail. If you can get me to answer a question like that you must be pretty sharp.

Q. I understand you to say the act taking the jail away from the Sheriff was passed because it was understood that the Sheriff made too much money out of the jail?

A. How do I know that? That is only rumor and I can't remember all the rumors. Rumors are sometimes very false. I don't know anything about it.

Q. Don't you know how the amount coming from the jail to the Sheriff may be made more or less?

A. Yes, sir; I do.

Q. Describe that?

A. By taking the prisoners away from it.

Q. Turning them over to some other officer, do you mean, than the Sheriff?

A. I don't care where they turn them over; if they are taken away from him he wouldn't make any money, that is all.

Q. What lock-up is there besides the jail in Kings County?

A. Kings County Penitentiary.

Q. Is that under charge of the Sheriff?

A. No, sir.

Q. Cannot the Sheriff's compensation be made greater or less, according to whether prisoners are taken to the jail, or sent to the Penitentiary?

A. What is the object of asking me that question?

Q. To find out whether that is the fact?

A. You know that as well as I do; how do I know anything about that?

Q. I want to have it upon the record, the fact, if it be so,

that by having the prisoners sent to the jail in charge of the Sheriff instead of to the Penitentiary, the income of the Sheriff is enlarged; is that so?

A. Well, I have no right to give my opinion on that at all, because I don't know; I can't tell, and I refuse to give any opinion on it; I am not competent to give an opinion on it.

Q. Do you know when the act which took the jail away from the Sheriff was repealed?

A. I think it was repealed the next winter.

Q. Who procured it to be repealed?

A. I don't know.

Q. Why was it done?

A. I don't know.

Q. What was publicly stated to be the reason?

A. Well, it was the general impression that it was repealed because no person would be willing to be elected to the Sheriff's office and take the responsibility for the emoluments. The emoluments of the Sheriff's office itself amount to little. I would not take the Sheriff's office and take the responsibility for twice the salary you talked about here yesterday. That is why it was repealed, as I understood it.

Q. Who makes up the bills which the Sheriff sends to the County?

A. They are made up by the Warden of the jail, and the Committee of the Board of Supervisors.

Q. Does that mean the bills are turned over to the Committee of the Board of Supervisors?

A. Yes, sir.

Q. Who makes them up in the first instance?

A. The Committee of the Board of Supervisors in connection with the Warden.

Q. Does the Warden make up these bills under the direction of the Sheriff?

A. The Warden makes up those bills in the jail when the committee goes there for taking up the commitments from the several Justices; and as to the number of prisoners there, the contract is so much a day. The committee then examines the bill, I presume. I don't know. I don't

go to the jail, and I hope I never will. I think I never have been there but four times since the Sheriff has been office. I keep as far away from there as I can. The Warden and the committee make up the bills and they certify to them, and after they certify to them, they go to the County Auditors, who examine them and certify to them and then they go to a committee of the Board of Supervisors, and they examine them, and then they are recommended to the County Treasurer to pay them and I draw the money then and enter it upon those books.

Q. What record is kept of the number of arrests in the course of a year?

A. Where?

Q. Anywhere?

A. I don't know what record is kept of the number of arrests. There is a record in the jail of the number of prisoners that arrive there. That is all I know about it. A record is kept of the name, age, nativity, etc., of the prisoners, and it is all put down on a book.

Q. But is there not kept a record showing the total number of arrests in Brooklyn during the year 1886; for example, was not the total number of arrests in that year 27,391?

A. I am like you—I don't know; I would have to look and I would have to take for granted that the book is right. The Police Department have all control over that and the Police Justices; we know nothing about that at all. The only arrests we make are arrests on bench warrants issued by the District Attorney.

Q. Do you know anything about an almanac published by the "Brooklyn Daily Eagle," which purports to give Brooklyn police statistics?

A. I have seen an almanac, but I don't know anything about it. I never took the trouble to read it or look at it.

Q. Don't you know the sources from which it obtains its information?

A. The "Eagle," do you mean?

Q. I mean as to police arrests?

A. No; I don't, except what I hear.

Q. What do you understand to be the record from which the number of arrests is taken?

A. I presume they got them from the station-houses; that is what I should judge, but I don't know anything about it. That is what I would do, if I wanted to get the number of arrests; if I was employed by the "Brooklyn Eagle," I would go the station-houses to find out.

Q. How is it possible to ascertain what proportion of the persons thus arrested, making up the entire number of arrests for the year, reach the jail?

A. I presume the book of the jail would show that. I have stated already a few minutes ago that of all parties brought to the jail a record is taken, giving the name, age, &c., and whether they are black or white, or what they are.

Q. Does it not frequently happen that the jail records represent persons who have been at the jail, and under confinement in the jail, who really were not confined there?

A. Well, I don't want to be impertinent, but I don't think that is a fair question to ask me. I have already stated to the gentleman heretofore that I have not been in the jail but four times, and that I never looked at the book.

Q. Do you know enough of the course of business to be able to inform me how that can be verified?

A. Wouldn't it be absurd on my part to form an opinion of that kind? I attend to the business of the Sheriff's office, and keep a record, as near as possible, as to my business there. I think everybody else ought to be able to attend to their own business and answer for themselves. I can't form an opinion for anybody else, and I only answer for myself. I don't keep a book for the people at the jail, and I have to depend entirely on what I am told as to matters which I do not attend to.

Q. What is the name of the Warden who has held office since Mr. Farley became Sheriff?

A. His name is Mr. Burrows.

Q. How long has he been connected with the Sheriff's office or the jail?

A. I think he went in when I did, first of January, 1885.

Q. As a new hand?

A. I think as a new hand in the jail. Yes, but he has ~~experience~~ experience in the county buildings.

Q. In what capacity ?

A. I can't answer that, only that I know he was there.

Q. Is there any report made to the Secretary of State's ~~office~~ office by the Sheriff of the number of convictions in Justices' Courts ?

A. Yes.

Q. Who makes up that report ?

A. One of the men in our office, Mr. Patrick Cook.

Q. Do you see his name in the list that the Sheriff has furnished ?

A. He is a deputy sheriff, and detailed to the City Court.

Q. Where is the book kept—at your office ?

A. The book ?

Q. Yes ; the book from which the statement sent to the Secretary of State's office is prepared ?

A. No ; there is no book there.

Q. From what is this statement which goes to Albany made up ?

A. From the Police Department's records, as I understand it.

Q. Where are Mr. Cook's duties—are they at the Sheriff's office or at the City Court ?

A. In the City Court.

Q. He is in attendance there now ?

A. Yes, or in the Court.

Q. Is he in this room ?

A. No ; he is in the Court, probably. He comes to the office sometimes early in the morning, at seven or eight o'clock, and if the Court sits he attends, and if the Court adjourns he comes up to the office. I understand that he goes into Police Headquarters, gets the number of arrests from the books of the Police Department, certified to by the Superintendent.

Q. There is one other subject : As I understand, you know the disposition which is made of this balance, \$30,282.62, which your statement represents to be the net income for 1886 of the Sheriff ?

A. Yes.

Q. You do ?

A. Yes.

Q. Does any portion of that amount come to you ?

A. No, sir.

Q. Did you, in 1886, receive no part of that amount ?

A. No, sir.

Q. Was any part of it expended by you ; did any part of it pass through your hands ?

A. Well, there is two ways to take that.

Q. Take it both ways.

A. No, I can't take it both ways, because it doesn't pass through my hands, except it be to pass through somebody else by drawing a check.

Q. That is what I am coming to, to ascertain whether you drew the checks which drew out that sum of \$30,282.62 ?

A. I drew some of them.

Q. Did any part of that go to Sheriff Farley for personal expenses ?

A. That \$30,000 ?

Q. Yes.

A. Oh. yes.

Q. Do you know how much ?

A. No, not exactly.

Q. What became of the residue ?

A. Which residue ?

Q. So much of the \$30,282.62 as did not go to Sheriff Farley for his personal expenses ?

A. The whole of it. He got a little more than that in 1886.

Q. How much more did he get ?

A. I think I paid him about \$33,000.

Q. Where did the rest come from ?

A. Came from some of the proceeds of 1885.

Q. At the end of 1886, was there any amount which was due and had not been paid ?

A. Yes.

Q. How much ?

A. Well, I can't exactly tell the amount.

Q. State it approximately ?

A. I can only tell this with regard to the She office for the two years. The year 1886 there was \$30 taking all the expenses first, and leaving that balance. From 1885 the whole amount that I paid him since time that I have been in there is \$45,000 for the two years. The year 1885 was not as good a year as 1886, for reason that Mr. Farley had more expenses ; he had to horses and vans, and a great many things that he required to start into the office with, which made his returns smaller, and I drew the checks for those expenditures.

Q. Do they not constitute his private property ?

A. Which ?

A. The horses and the vans ?

A. Yes.

Q. Which he has bought out of the office income ?

A. Yes.

Q. Is what you mean to say this, that after these purchases of property which now belong to him what remainder was \$45,000 ?

A. Yes, and I paid that to him.

Q. Keep, if you please, to the year 1886. I wish to ascertain how much of this \$30,282.62 went to Mr. Farley for his personal use ?

A. The whole of it.

Q. You mean he spent it for his family expenses ?

A. I don't know what he did with it ; I didn't ask.

Q. Don't you know what he did with it ?

A. I do not.

Q. Don't you know what he did with some part of it ?

A. No, sir ; he comes to me and wants to know what I have on hand, and I fill the check up, and if he wants it, he signs it and draws it. I don't ask him what he does with it. I am of the opinion that it would be very impertinent in me to ask.

Q. Has any part of that money been disbursed through you ?

A. No, sir ; not of that \$30,000.

Q. I am speaking now of the \$30,282.62 ?

A. No, sir ; I disbursed none of that.

Q. Have no portions of that amount been disbursed by persons other than Sheriff Farley ?

A. Of that \$30,000 ?

Q. Yes ?

A. No, sir.

BY THE CHAIRMAN : Q. Do you mean to say that Mr. Farley was the payee of the check in each instance ?

A. Yes ; they were drawn to his order in every one of them.

Q. Drawn to his own order ?

A. Yes.

BY MR. PARSONS : Q. I call your attention to one of the books produced by you, which is headed, "Brooklyn Trust Company, Cash ;" representing payments made and moneys received during 1886 ; what items do those entries embrace ?

A. Oh, they embrace the items of salaries of the men of the jail ; items for moneys drawn for the Sheriff's house-keeping himself, for the matron, for the baker, the butcher and the horseshoer, and several other people ; many things.

Q. What has been done with the amount in excess of these disbursements of which you have now spoken ?

A. It was left in the bank.

Q. Does it remain there indefinitely, or does it go to somebody in the end ?

A. It remains there until the Sheriff wants to draw it, and then he asks me to fill up a check.

Q. Under date of February 13, 1886, appears this item : By cash for disbursements, C. B. Farley, \$13,618.75 ; what does that mean ?

A. Is that in 1886 ?

Q. Yes.

MR. GREENE : What is the date ?

MR. PARSONS : February, 1886.

A. That is part of the \$30,000 I suppose.

Q. I will ask you to do this : Take that book and read off with the dates and amounts the payments shown there

to have been made to Sheriff Farley or his deputy ; began at the beginning ?

A. In 1886 ?

Q. In 1886.

A. To him alone ?

Q. To him or his family ?

A. (Reading) January 30th, 1886, Charles B. Farley, \$250; February, 13, 1886, C. B. Farley, \$13,618.75 ; February 27, 1886, C. B. Farley, \$250; April 1, 1886, C. B. Farley, \$250 ; May 1, 1886, C. B. Farley, \$250; May 3, 1886, C. B. Farley, \$5,000; May 20, 1886, C. B. Farley, \$250 ; July 1, 1886, C. B. Farley, \$250; July 31, 1886, C. B. Farley, \$250 ; September 1, 1886, C. B. Farley, \$250 ; October 1, 1886, C. B. Farley, \$250; October 30, 1886, C. B. Farley, \$250; November 13, 1886, C. B. Farley, \$15,000 ; December 7, 1886, C. B. Farley, \$250; May 24, 1886, C. B. Farley, \$250.

Q. I observe running through the year 1886 are several items like this : " 1886, December 16, By cash for disbursements, Mrs. A. Farley, \$103.30;" what do those items mean ?

A. Those items are for Mrs. Farley down there ; she takes charge of prisoners down there ; she boards them and feeds them.

Q. Is Mrs. Farley the wife of the Sheriff ?

A. Yes, sir.

Q. What do you mean by " down there" ?

A. At the jail.

Q. They live in the jail ?

A. Yes.

Q. You observe, do you not, that every month, or thereabouts, a payment of \$250 is made to Sheriff Farley ?

A. Yes.

Q. What does that represent ?

A. Well, I suppose it represents his expenses for keeping his family and folks at the jail ; his house expenses, I presume.

Q. Will you take the other book, which is headed "Cash," and show how much that represents to have been received by Sheriff Farley during 1886 ?

A. May 3, 1886; Charles B. Farley. \$5,000.

Q. Do not these amounts, which these books represent to have been received by Sheriff Farley in 1886 very largely exceed the \$30,282.62, to which you have previously testified?

A. I testified that the \$30,000 was over and above all expenses, including those \$250 that he draws monthly; that is what I mean to state. I have stated that I check off all the expenditures and all the cash received in the office, deducting the one from the other, and the balances. \$30,000, and the amount of \$250 monthly is deducted from that.

Q. You mean that he paid that before you reach this amount of thirty thousand and odd dollars?

A. Yes.

Q. But are you not very widely in error about the figures: here are the following items in the Trust Company book: \$13,618, \$5,000 and \$15,000, and in the other book \$5,000; these amounts make \$13,618 without taking into consideration the \$250 a month for the Sheriff's expenses; for his family expenses?

A. I think there is more than that. I think I have stated before that I had paid him \$45,000; I don't know where the rest is.

Q. But I thought you stated \$45,000 embraced 1885 as well as 1886?

A. Yes. Some of the proceeds of 1885, you understand, was paid in 1886—some of the profits; so that the amounts exceed the \$30,000. The way that I get the \$30,000 is taking the money received by me from January to December and deducting all the disbursements from that, and so the balance of \$30,000 is less. He might draw all that balance; he might have \$10,000 left over from 1885 and draw that on some day in 1886.

Q. Are you able to state what amount has been earned during 1886 which remained due for that year?

A. No; if I am clear about that I think it strikes me that there is something like \$12,000 or more.

Q. What is the explanation of the fact that \$250 a month or thereabouts is paid to the Sheriff for his family expenses and that the residue of the amounts which is here entered

as paid to him constitutes all these large sums of \$13,618 at one time, \$5,000 on each of two other occasions, and \$15,000 at another time?

A. Well, I presume that it is in this way: any business man, as I did, might give him the advice that there was no necessity for that money lying in the bank and not deriving any benefit from it. I told him if I were in his place I would put that money where he would derive some benefit for it; that I would place it in the Savings Bank or somewhere where it would draw interest. Every man tries to make his money pay as much as he can. If I could get six per cent. for my money by putting it in the Savings Bank I would put it there; if I couldn't get six per cent. I would take less; or I would put it where I could possibly get more. If I could buy a house that would pay me 20 per cent. I would take that. I presume Farley was instructed that way, and therefore he took it up.

Q. What is the explanation of the fact that it is not entered as coming into the office till the days on which it is paid to Farley?

A. In the Fulton Bank and the Brooklyn Trust Company.

Q. Does this account, and I mean the account which is headed "Brooklyn Trust Company, Cash," correspond with the deposits in and the checks drawn against the Brooklyn Trust Company?

A. Yes.

Q. I see there is such an item as this: "November 13, 1886, by cash for disbursements C. B. Farley, \$15,000;" does that mean that on that date a check was drawn to the order of Farley for \$15,000, on the account in the Trust Company?

A. Yes, sir.

Q. In whose handwriting is that entry?

A. That is mine.

Q. What is meant by the expression: "By cash, for disbursements," what had disbursements to do with it?

A. Well, I have a system of keeping my books for my own benefit, so as to know what I spend and what I take in. I know what it means, that I drew a check for \$15,-

000, and he drew the money out. I am keeping books for my own understanding, and am not keeping books for a merchant or anybody else.

Q. Does Farley keep a bank account outside of the Brooklyn Trust Company?

A. That I don't know.

Q. Where are the return checks which represent those amounts?

A. I presume they are in the office.

Q. I want to see them; will you send for them.

A. I will not.

Q. Why not?

A. Because they are none of my business. You can get them from the Sheriff if you want them.

Q. Are they not in your custody?

A. They are in the Sheriff's custody.

Q. Can the Sheriff obtain them except through you?

A. Yes.

Q. How?

A. By going and getting them.

Q. Are they under lock and key?

A. At night, I presume.

Q. Are they not under lock and key?

A. No; they are not. They will be after four o'clock.

MR. PARSONS: Is the Sheriff in the room—Sheriff Farley?

THE WITNESS: I change my mind—I will get them for you.

MR. PARSONS: Thank you.

THE WITNESS: Is Bushnell here?

(The person called for not responding, some one in the room replies that he has gone out.)

THE WITNESS (addressing a person in the room): Will you go over to the office and tell Mr. Frank McElroy to send me over the checks on the Brooklyn Trust Company.

MR. PARSONS: And there is one of \$5,000 drawn upon the Fulton Bank, is there not?

THE WITNESS: Yes.

MR. PARSONS: Then get both, if you please.

THE WITNESS: Get them both—both those of the Fult ~~on~~
Bank and the Trust Company.

MR. PARSONS: We will ask Sheriff Farley a questi ~~on~~
now. Mr. McLaughlin, will you kindly give way to M ~~r~~.
Farley.

THE WITNESS: Yes, sir.

MR. PARSONS: Please to send for those checks:

THE WITNESS: I have already done so.

(Thereupon Mr. McLaughlin's examination was ~~as~~
suspended for the present, and Mr. Farley took the ~~the~~
stand.)

Charles B. Farley, recalled and further examined:

BY MR. PARSONS: Q. According to the books of the Brooklyn Trust Company cash account, which has been produced by Mr. McLaughlin, and as to which he has testified that it corresponds with the deposits made in and checks drawn upon, the Brooklyn Trust Company, appears this item: "November 13, 1886, by cash for disbursements, C. B. Farley, \$15,000." What do you know about that item?

A. \$15,000? I drew a check of \$15,000 from the Trust Company.

Q. What did you do with it?

A. I got it.

Q. What did you do with the check?

A. I had the check cashed.

Q. Do you mean, put into bills?

A. Yes, sir.

Q. What did you do with the bills?

A. I got them up home.

Q. Where up home?

A. I have got them up in the prison.

Q. Why did you take the money out of the Trust Company to put it in the prison ?

A. Well, thought I might want to use it ; and I did use a few dollars of it.

Q. How many dollars did you use ?

A. I used, I guess, about \$6000.

Q. What for ?

A. Well, I lent it to a friend of mine on a mortgage.

Q. What is his name ?

A. What is his name ?

Q. Yes.

A. Well, he is a pretty near friend of mine. Is it necessary for me to give you his name, Counsellor ?

Q. I think so, Sheriff Farley. Can there be any reason why you should not name a person to whom you loaned upon mortgage \$6000 ?

A. No, sir.

Q. Please to mention his name.

A. Well, his name is Michael Faley.

Q. When did you receive this mortgage from him ?

A. I didn't receive any mortgage from him ; I lent him the money.

Q. I thought you said you loaned it on a mortgage ?

A. On a mortgage, yes, sir.

Q. What do you mean by loaning money on a mortgage ?

A. I will tell you, counsellor—

(At this point Mr. McLaughlin, the witness who was last on the stand, passed behind the official reporter and spoke to the witness now on the stand, Mr. Farley).

THE CHAIRMAN : Mr. McLaughlin, you will not instruct this witness; you are tampering with this witness and trifling with this Committee.

(Mr. McLaughlin immediately passed on behind the witness and to another part of the room).

THE WITNESS : I lent the money to this man Mr. Faley.

By MR. PARSONS : Q. No ; I want to know about **the** mortgage ; you have got beyond Mr. Faley.

A. I lent him \$6000 ; or gave him \$6000. He is a mem - ber of my family, and I think I have got a right to do **with** my private money pretty near what I like, can't I, gentle - men ? (addressing the committee).

Q. Was there any mortgage about that transaction ?

A. A mortgage ?

Q. Yes.

A. Well, there were a gentleman here in the city held **a** mortgage on his property, and I thought, being as he **was** my relative, that I ought to give the gentleman this money and release his property.

Q. Who was the gentleman ?

A. I think his name was Kissam, if I am not mis - taken.

Q. What is the first name of Mr. Kissam ?

A. That I couldn't say.

Q. How long have you known him ?

A. Known who ?

Q. Mr. Kissam ?

A. Well, I aint known Kissam at all. It is only what the old gentleman told me that Mr. Kissam had a mortgage of \$6000.

Q. Is the "old gentleman" the person whom you de - scribed as Mr. Faley ?

A. Yes, sir.

Q. What is his relationship to you ?

A. He is my father-in-law.

Q. Let us see whether this is the transaction : that you furnished to Mr. Faley \$6000, to pay off a mortgage that was held by a Mr. Kissam upon property of Mr. Faley ?

A. Yes, sir.

Q. What became of the residue of the \$15,000 ?

A. I got that, sir.

Q. At the jail ?

A. Well, yes, sir, at the jail.

Q. In bills ?

A. In bills.

Q. Are you quite sure that it is all there ?

A. I generally count it about once a week; I am afraid it will be taken away, and I generally examine my little pile there.

Q. Mr. Farley, I wish you to inform the Committee whether you did not consider that money safe when it was in the Trust Company?

A. Yes, sir: I did.

Q. Why did you take it away from the Trust Company?

A. I took it out for to invest it.

Q. Why did you not invest it then?

A. I thought I would have it to a better advantage, as I thought that I could get more on a mortgage than I could in the Trust Company.

Q. But you apparently have not invested \$9,000 of it?

A. No, sir; well, I hold that; I will invest it if I can only find a gentleman that wants money on a mortgage?

Q. I ask you the same question as to a sum of \$13,618.75, which this book shows to have been paid to you by the Trust Company on February 13, 1886; what did you do with that money?

A. Well, I refuse to answer that, Counsellor.

Q. Why?

A. Why? Why should I answer that?

Q. What objection can there be to your answering that?

A. What objection?

Q. Yes?

A. Why that is a private matter. Now, wouldn't you think so, Counsellor, yourself? Wouldn't you think that was a private matter of my own, what I do with my money?

Q. That is just what I wish to ascertain, whether it is a private matter or whether it concerns some other private matter?

A. No, sir; I give you my word as a gentleman that it concerns only my personal family.

Q. That can be ascertained if you will inform the Com-

mittee what became of that money ; now what became it ?

A. I got it.

Q. In bills ?

A. Yes, in bills.

Q. At the jail ?

A. I guess it is at the jail ; I don't think it has been taken out of there.

Q. How much money do you want the Committee to understand that you have at the present time at the jail ?

A. I refuse to answer that, Counsellor.

Q. Have you any ?

A. Yes, sir ; yes, sir, I have.

Q. Sheriff Farley, are you aware at all of the aggregate, I mean the total of the amounts which this account shows to have been turned over to you during 1886 ?

A. Yes, sir.

Q. How much do you think that it is ?

A. I think the amount that I have drawn out of the Trust Company is about \$45,000.

Q. Since when ?

A. Since the commencement of my term.

Q. I am now speaking about amounts received by you in the year 1886 ; are you aware what amounts were received by you personally during that year ?

A. Of, 1886 ?

Q. 1886.

A. I can't tell without referring to my private accounts, that's sure, I don't think I could.

Q. Do you think that in 1886 you received as much as \$20,000 all told ; in 1886, I ask you ?

A. I wouldn't like to answer, and tell you what I don't know.

Q. Now, Sheriff Farley, these accounts make it appear that you received the following sums : On February 13, 1886, \$13,618.75 ; May 3, 1886, \$5,000 ; May 6, 1886, \$5,000 ; November 13, 1886, \$15,000.

A. I think that is right, Counsellor. I am not sure now on the dates—see ? I am not sure on the dates.

Q. Was each of those payments made by a check ?

A. Yes, sir, a check.

Q. Was each check turned into bills?

A. Yes, sir.

Q. Why was it turned into bills?

A. Why? I don't think as I have got a right to answer that. Counsellor. I don't think I have, gentleman.

THE CHAIRMAN. The Committee direct you to answer, Mr. Farley.

THE WITNESS: I object.

BY MR. PARSONS. Q. What denomination of bills was paid to you by the Trust Company, or the bank, upon these checks; bills running in what amounts?

A. I don't know the size.

Q. \$1,000 bills, \$5,000 bills, or small bills?

A. There might have been \$1,000 notes among them; I don't know.

Q. I want you to tell this Committee why these transactions, which involved, during 1886, \$38,618, were all made in bank bills?

A. What is that?

MR. PARSONS: The question will be read to you.

(The question being read to the witness, he said:)

THE WITNESS. Well, I object to answering that question. I have got a right to draw my money as I think best. Haven't I?

Q. Well, was there an honest reason for it?

A. An honest reason? Yes, sir.

Q. State that honest reason?

A. That I wanted that money.

Q. Why in bills?

A. Well, I don't think I ought to answer that question.

Q. What honest reason can there be for not wishing to answer why you drew bills on all these checks representing these numerous sums? Why did you draw them in bills?

A. What right have I to answer such questions about my private business? Have I any business to? If I have, to be sure I must be bled like a child. I tell you what—that money was deposited in my name, and I had a

right to draw it out. Now, tell me if I am right? Is that proper, gentlemen?

THE CHAIRMAN: The Committee direct you to answer the question.

MR. GREENE: That is, the majority direct.

THE WITNESS: I object to answering what I done with my money and what reason I had to draw it out in bills.

Q. Did you yourself turn these checks into bank bills?

A. Yes, sir.

Q. Where did you do it?

A. I done it in the Trust Company.

Q. Do you mean that the Trust Company paid you bills?

A. Yes, sir; you mean, paid me in bank notes?

Q. Yes?

A. Yes, sir.

Q. Does that mean that you took a check down to the Trust Company, and that the Trust Company turned the check into bills?

A. Yes, sir.

Q. Who was with you?

A. I was alone.

Q. Which clerk did you make the transactions with—what is his name?

A. That I don't know; I never asked the clerk his name.

Q. Was it done over the desk or counter?

A. There is a delivery portion of the building, whatever portion that was.

Q. After receiving the bills, did you take them to the jail?

A. Yes, sir; yes, sir.

Q. In each case?

A. Yes, sir.

THE CHAIRMAN (rising): I will state to counsel that the Committee has taken cognizance that one member of the audience is directing the witness in his testimony by shaking his head; that is Mr. McLaughlin. We will have Mr. McLaughlin removed from the room if you advise.

Mr. PARSONS: Counsel hope that Mr. McLaughlin will not interfere with the examination further.

Mr. McLAUGHLIN (sitting in the audience): Mr. McLaughlin may be struck with the palsy for all you know. With all due respect to the Committee, I have a right to shake my head. How does the gentleman know that I am instructing the witness? I may be directing somebody else.

By Mr PARSONS: Q. What has passed between you, Mr. Farley, and Mr. McLaughlin about your testimony; what talks have you had upon the subject?

A. I haven't had any, Counsellor.

Q. Did you not have a conversation with him in the adjoining room?

A. Yes, sir.

Q. What did you talk about then?

A. We was just talking about the business of the office; not about what I come for here to-day.

Q. What were you talking about the business of the office for; what was it that you were talking with regard to the business of the office?

A. I said to Mr. McLaughlin we ought to be in the office in place of being over here; that I didn't think we could be any use here to the Committee. I don't know whether we are or not.

Q. Is that all the conversation you had with Mr. McLaughlin?

A. That is about all.

Q. Are you aware that you are under oath?

A. Yes, sir, I am.

Q. Now remembering that (and I do not desire to say it offensively at all, but keeping that in mind) I want you to inform the Committee whether there has not, within the last half hour, been conversation between you and Mr. McLaughlin with reference to your testimony?

A. I have been out in the street.

Q. Did he not say something to you when he passed you here in the court room when you were taking the stand?

A. No, sir.

Q. Do you mean that, Mr. Farley?

A. I mean it from the bottom of my heart. If Mr. McLaughlin said anything to me I didn't hear it; I didn't pay any attention.

BY THE CHAIRMAN: Q. After Mr. McLaughlin had left the stand, and after you had taken the stand, did he not tell you not to answer those questions?

A. Well, he might; I didn't hear it.

THE CHAIRMAN: The Committee heard it—every one of them.

THE WITNESS: I might have been paying attention to you people and didn't hear it; paying attention to what the counsel said to me.

BY MR. PARSONS: Q. Didn't this take place before I began to ask you questions; when you resumed the stand did not Mr. McLaughlin, as he passed you, tell you not to answer the questions?

A. Right here?

Q. Yes, right here?

A. I didn't hear him; he might have spoken and I did not hear.

MR. PARSONS: Now, Mr. McLaughlin, I wish to ask you a few more questions:

BY THE CHAIRMAN: Q. I would like to ask this witness one more question. Whether the \$15,000 went to Mr. McLaughlin that was drawn, and he disbursed it?

A. No, sir.

Q. Then when Mr. McLaughlin said that he disbursed it he told what was not true?

A. Yes.

Q. Then when he said he disbursed it, he said what was not true?

A. No, sir.

MR. PARSONS: Now, Mr. McLaughlin, will you take the stand?

Hugh McLaughlin, recalled and further examined :

BY MR. PARSONS : Q. Have you obtained the return checks representing these drafts, that you were asked to produce ?

THE WITNESS : One minute, before you go any further. As I am now on the stand, I would like to refer to a question by the Chairman to Mr. Farley. The Chairman made a remark to him, attributed to me, in reference to the Sheriff, that I said that I disbursed that money, and that McLaughlin did not tell the truth. Did I not understand the Chairman to say that ?

THE CHAIRMAN : That is the Chairman's recollection of your testimony, and also the recollection of some members of the Committee.

THE WITNESS : If the Chairman will understand, I stated to the counsel when I was first on the stand, that I drew that check to the order of Farley ; that in keeping my books, so that I might know how the money was disposed of, for my own benefit, I put it down as "Disbursements."

(The Chairman requested from the official reporter a statement of Mr. McLaughlin's testimony in that respect, and upon the stenographer's statement thereof, the Chairman said :)

THE CHAIRMAN : The stenographer states that your evidence is as you have now stated it. I therefore take back my remark, and I beg your pardon.

THE WITNESS : Mr. Parsons, what check do you want ?

BY MR. PARSONS : Q. I want that check that represents \$13,000, of February 13, 1886, and also the checks for the other large amounts drawn to the order of Mr. Farley, and which were testified to by you.

(The witness produces at first three checks drawn to the order of Mr. Farley, dated as follows : November 7, 1885 ; February 13, 1886, and May 3,

1886, and they are handed to the Committee and to counsel.)

THE WITNESS: The check of November 13, 1886, called for by you, may not have been returned from the bank. It may be in the bank yet, as I do not find it among these.

Q. Do you find any return checks there later in date than November, 1886, in the Trust Company package?

A. Yes, for salaries of the men down there.

Q. If the Trust Company has returned checks of dates later than November why has it not returned that check?

A. I find that I have got some as late as November 13. Now what was the date of the one you asked me to find?

Q. That was November 13, 1886?

A. I don't find it yet, but I will look further. (After a search the witness said :) I find now a check dated November 13, 1886, for \$15,000.

A. Now please find the Fulton Bank check of May 3, 1886?

A. I have it here.

(The two last named checks are handed to the Committee and to counsel.)

Q. In addition to the four checks for the following dates and amounts, and drawn on the Trust Company, namely, February 13, 1886, \$13,618.75; May 3, 1886, \$5,000; November 13, 1886, \$15,000, and a check dated May 3, 1886, on the Fulton Bank for \$500, was there not also drawn on November 7, 1885, upon the Trust Company, a check to the order of Mr. Farley for \$12,000?

A. I guess so; the book shows it.

Q. Is not this that I now show you the check?

A. Yes, I guess so. (Examining it.) Yes.

Q. Are all these checks filled up by you?

A. Yes, sir, except the signature.

Q. Is the writing of Charles B. Farley as the payee of each of the checks in your handwriting?

A. Eh?

Q. Is the writing of Charles B. Farley as the payee of each of these checks in your handwriting ?

A. You mean the body of the check filled up by me ?

Q. Yes.

A. Yes, sir.

Q. Do not these checks show you that in your previous testimony you understated the amount which you testify you had paid over to Sheriff Farley up to the end of 1886 ?

A. I think not.

Q. If you add \$12,000, the amount of the check of November 7, 1885, to the \$38,618.75, represented by the other four checks, does not that make \$50,618.75 ?

A. Yes ; I suppose it does ; if it is added together.

Q. How do you explain then, that you previously testified that the amount which you paid over to the Sheriff was \$45,000 ?

A. I explain that in this way : as I stated, I made up the account, and, to the best of my recollection, I paid him \$45,000 ; that was my best recollection. If I had taken the checks and went over them I could have told exactly.

Q. What certainty is there that you did not pay more than \$38,618.75 ?

A. The certainty is that if I did the checks would show it, I don't pay money to the Sheriff, or to anybody else, that I don't know.

Q. These payments are all outside of and in excess of the \$250 a month which the Sheriff received for family expenses ?

A. Yes, and all that I know of.

Q. What do you know about these checks being paid by the Trust Company and by the Banks in bills ?

A. Nothing.

Q. When first did you learn that that took place ?

A. What ?

Q. That these checks were all turned into bills ?

A. Why, to-day.

Q. Did it surprise you ?

A. No ; there isn't anything surprises me now adays.

Q. Mr. McLaughlin, were you here when Mr. Farley was called back to the stand ?

A. Yes, sir.

Q. Did you walk past Mr. Farley as he was taking his place on the stand ?

A. Yes, sir.

Q. Why did you do so ?

A. That isn't a fair question. What is the object ?

Q. To get an answer ?

A. Well, I sit here to protect myself. Will you tell me what your object is ? I am a layman and am not allowed to be represented here by counsel, and I wish to be very careful.

Q. I want to ascertain why you took occasion to pass by the place where Mr. Farley was to be examined just before he was under examination ?

A. I refuse to answer that question. That is a matter that rests entirely with myself.

Q. Did you not take occasion to pass the witness seat just after Mr. Farley had been examined about this check of \$15,000 that was turned into bills ?

A. What is that ? I don't know whether it was then or not. I know I passed him ; I didn't know what was going on.

Q. Did you say anything to him as you passed him ?

A. I decline to answer.

Q. Why ?

A. For reasons best known to myself. If you will tell me why you want to know, then I will see.

Q. I want to know whether you interfered in this examination by instructing the Sheriff upon the question whether he should or not answer questions put to him ?

A. What is your object ?

Q. To show that you did so ?

A. Then show it through somebody else besides me.

Q. Are you not willing to tell the truth about it ?

A. If I am forced to I am.

THE CHAIRMAN : The Committee direct you to answer.

THE WITNESS : I refuse to answer any such question. I

am here to protect myself against the Committee and Counsel. If I were permitted to employ a Counsel and Counsel directed me to answer, I would answer. But as it is, I decline.

THE CHAIRMAN: On the ground that it would criminate yourself?

(To which enquiry the witness makes no reply.)

THE CHAIRMAN: The Committee are unanimous in directing that he must answer.

MR. PARSONS: I will put the question in shape and then read it to the Committee.

BY MR. PARSONS: Q. I request you to state what you said to Mr. Farley, as you passed him when he was on the witness stand and was being examined, as to the check of \$15,000 that he stated to have been drawn by himself in bills?

A. Why not ask Mr. Farley?

Q. Do you decline?

A. Yes.

Q. Why?

A. For reasons best known to myself.

Q. Do you decline to answer on the ground that it will criminate you?

A. Why, as not being a counsel and not knowing, I decline to answer. I have already stated that I was a layman, and that I didn't know whether it would or not; and the counsel knows whether it is a question of crimination. I have a right to protect myself, and on that ground I refuse; if I did say anything, you must prove that by somebody else.

MR. PARSONS: I do not understand, Mr. Chairman, that the witness takes the position that the answer will criminate, and therefore submit to the Committee that he should be instructed to answer.

THE CHAIRMAN: The Committee unanimously instruct the witness to answer the question as to what he said to witness Farley when he was upon the stand.

THE WITNESS: Well, under these grounds, I decline. If it is a matter of crimination that I said anything to him, the Committee and the counsel must prove that first; and on that ground I decline.

BY MR. PARSONS: Q. Was there conversation between you and Mr. Farley before he was called to the stand during the interval between your leaving the stand and his being brought back there?

A. When he got off as a witness?

(The question was then read to the witness, and he said:)

THE WITNESS: You mean the first time?

Q. I mean just before he was called back to testify at the \$15,000 in bills?

A. I didn't see him until you called him in. I didn't go out of the room.

Q. Did you not say something to him as you passed while he was being called from the other room and as you were going to the other room?

A. I think not; I didn't see him.

Q. Did you not speak with him?

A. No; he was in here before I went out. He was on the stand, and I went out to the closet while he was on the stand, and didn't see him until I got in here.

Q. Did you not quickly go into the adjoining room as you heard the call for Mr. Farley?

A. No, sir; it was not me.

MR. ARNOLD: Mr. Parsons, I understand Mr. McLaughlin's answer a little differently from what you say to. The interference of which you complained, the interference to which you allude, seems to have occurred while he was on the stand. Now, I understand Mr. McLaughlin to say that he interfered with Mr. McLaughlin's testimony for the purpose of protecting himself; but I don't know, but his language might be susceptible of the conclusion that he desired to prevent Mr. Farley from criminating himself (Mr. McLaughlin) by his testimony.

THE WITNESS: Oh, no, sir.

MR. ARNOLD: Is that the way you intend to be understood?

THE WITNESS: No, sir; I am not afraid of any crimination. You should understand that my sheet is as white as anybody else's here.

MR. PARSONS: I understand that there were two occurrences; one took place in the other room and the other occurrence in this room.

THE WITNESS: I had no conversation with Mr. Farley at all. Somebody called him in, and he passed me by.

MR. GREENE: I understand the witness to say that he declined to answer, on the ground that he is not instructed that his speaking to the Sheriff while on the stand would criminate him. Not on the ground that it would criminate himself, but on the question whether it was a criminal act for himself to have spoken to the witness.

MR. ARNOLD: I understand him to mean that Farley, being without counsel, he (McLaughlin) felt it his duty to himself to instruct the witness Farley.

MR. GREENE: I am simply desirous of getting at his understanding of how he thought it would affect himself, his having spoken to the witness. I thought it would be proper to suggest to him that it was not criminal to speak to the witness.

MR. PARSONS: What I am going to suggest is somewhat in that direction. I look upon an interference with a witness when under an examination as so grave an occurrence that, as it may be the subject of a proceeding at the bar of the Assembly, I think Mr. McLaughlin should have the fullest opportunity here and now of making any explanation of this occurrence which he desires, to form a part of the record when it shall be referred to the Assembly. Therefore I say to you, Mr. McLaughlin, that if there is any justification for your interference with Sheriff Farley, while he was under examination which you wish to have put upon the record to go to the Assembly, you will avail of this opportunity to state it.

THE WITNESS : If it is not criminal I have no objection. I passed by him and I said, "anything connected with your private matters I would refuse to answer." That is all I said to him. Maybe he didn't hear it.

By MR. PARSONS : Q. Now explain, please, why you regarded it as incumbent upon you to give this advice to a witness being examined under oath ?

A. Well, I considered that, being his Under Sheriff, and knowing him a great many years, and that Mr. Farley is a man that makes a great many assertions and liable to state what he doesn't know particularly, it was my duty to do it. He isn't a sharp man ; not able to answer, and might answer questions that I didn't think he had a right to, not knowing fully except he is properly advised.

Q. Does any excuse of that kind exist against your giving information ?

A. As to what ?

Q. Any inability to give intelligent and accurate answers ?

A. As to what ?

Q. As to any of these occurrences ?

A. Which occurrences ?

Q. The occurrence to which I propose in a few minutes to direct your attention is changing \$50,618.18 into bank bill.

A. Well, what about that ?

Q. You don't keep the examination in mind. I want to know whether there is any reason dependent upon your want of intelligence which interposes any obstacle to your giving testimony upon that subject ?

A. No, sir.

Q. Explain, then, all that you know about this bank bill occurrence ?

A. I told the gentlemen a few minutes ago that I know nothing about it in the world except filling up the check and I don't see why counsel wants to proceed this length of time to ask me. I told you I know nothing about the checks excepting having filled them up and handing them to Mr. Farley. Where he got the money, what money he got, and what he did with it, I don't know any more about than you do. I never asked him.

Q. Your mind is an absolute blank upon the subject ?

A. Yes, sir.

Q. Is there any reason of which you think and know to explain why this enormous amount should be turned into bank bills?

A. None that I know of.

Q. Can you conjecture any reason?

A. I have talked with Mr. Farley on occasions, as a friend—on one or two occasions, that if he had money, that I thought he ought to try and find some place to dispose of it so as to get an income.

Q. When did you begin to have such conversations with him?

A. May be two or three times; I can't state the dates.

Q. Before these large checks were drawn?

A. Oh, yes, but he had almost no bank account at all in the commencement of his business.

A. What was then said about drawing the amounts in bills?

A. Nothing except to advise him to draw his money and dispose of it somewhere, to earn money. I said, "if you keep your money in the bank where you can draw it out any time you want it, people who know you have got money they want to borrow it from you, and you will do with it as others have done," and I advised him locking the money up.

Q. Do you know any person who received any part of that \$13,618.75?

A. No, sir.

Q. You know the Mr. Faley he spoke of?

A. No, sir; I am not acquainted with him; I think I was introduced to him as his father-in-law once only.

Q. Who is John McNamara, to whom were made payments which were entered in this book of the Brooklyn Trust Company account?

A. He is the man that furnishes the jail with bread.

Q. Do these payments to him represent bread bills?

A. Yes, sir.

Q. Where are the check books of the Trust Company and the Fulton Bank from which checks were detached;

I mean by these the particular ones making up 1
\$50,618.18?

A. They are in the office.

Adjourned to Monday, March 7, 1887, at 10 A. M.

COMMON COUNCIL CHAMBER,
BROOKLYN, N. Y.,
March 7, 1887.

Met pursuant to adjournment, all the parties being present as stated heretofore, except Mr Cutler of the Committee.

THE CHAIRMAN : We are now ready to proceed. Please come to order, gentlemen.

William H. Murtha, recalled, further testifies:

THE WITNESS : I desire to say to the Committee and to counsel that since giving my testimony of Saturday I have carefully read the evidence given by me, and at this time desire to make a supplementary statement.

Among other things the counsel asked me to furnish the amounts of the running accounts in my office designated as open accounts, and if I could give him the amount received by the Register for searches.

In addition to that I have reviewed my testimony connected with what the counsel designated as "privileges" in the office.

I wish to say to the Committee and the counsel that when the suit was instituted against me by the Title Guaranty & Trust Company for \$20,000 damages for the exclusion of their employees, I turned the matter over to my attorney to make a settlement and for a discontinuance of the suit. I have consulted him since I left the stand and find that in the discontinuance of the suit he made arrangements with the company, of which I am now informed and can speak intelligently.

The privileges granted were for a number of their employes to use the office after the office hours, and while my copyists were in the office engaged in their work. I am informed by him that he was allowed a compensation for that and deducting his legal expenses he has in his hands subject to my order a sum which I am prepared to read in this statement, to show what will be the income of the office adding that as an asset, similar to my open accounts.

The gross receipts testified to were \$68,916.32, less the salaries of the staff in the office and the disbursements to the copyists, \$31,886.54. I will read the statement as I have it tabulated here :

The gross receipts testified to were,.....	\$68,916	32
Less salaries to deputy, searchers, clerks, and		
disbursements to copyists.....	31,886	54
<hr/>		
Net cash receipts.....	\$37,029	78
Add amt. due from open ledger acct., say \$5,000		
Add amt. due from county on the Liber		
account, say	1,500	
Add amt. due from facilities Title Co. to		
Dec. 31, '86, as per statement		
of my attorney, gross.....	\$5,275	
Less counsel fees.....	1,500	
Balance in attorney's hands to		
my credit.....	3,775	
Making total of suspended ac-		
counts.....	\$10,275	
Which, added to the \$37,029.78, would make		
a total net of.....	\$47,304	78

By MR. PARSONS: Q. Does that complete such supplemental statement as you desire to make?

A. It does, except in the way of the searches.

Q. I wish that you would complete your supplemental statement?

A. I find in the examination of the searchers' books that the amounts paid to the Register for his services during the year 1886, and received over the counter, was \$18,591.16.

Q. Is that inclusive or exclusive of what are called extra charges?

A. That is inclusive.

Q. State then what during the year 1886 was the amount of the extra charges?

A. About \$6,000 I believe that the Register received.

Q. What do you assume to be the rate of division between you and the searchers?

A. On the extra rates ?

Q. Yes,

A. About thirty-three and a third per cent.

Q. Have you the exact amount which during the year 1886 came to you from that source ?

A. I have, sir.

Q. Give the figures ?

A. \$18,591.16.

Q. I mean the exact amount of extra charges ?

A. \$6,096.58.

Q. Will not the result then be this : that if your searchers made a fair division with you they must have received for fees in excess of legal rates during 1886 \$18,289.74 ?

A. It would, assuming that my \$6,096.58 is one-third.

Q. Or in other words assuming that the searchers make an honest divide ?

A. That is the inference, yes, sir.

Q. The question which then remains relating to this subject, Senator Murtha, is the possibility of settling the question whether during 1886 \$18,289.74 does or does not cover this extra charge ?

A. Yes, sir.

Q. How can that be made sure ?

A. From the books in the office I assume.

Q. But does not that involve the question whether all these extra charges are or are not inserted in the books ; who knows that ?

A. I assume my deputy will know it.

Q. Do you mean Mr. Barre ?

A. Yes, sir.

Q. Is it not the fact that these extra charges are assumed to represent services rendered by the individual searchers ?

A. Do I understand you, Mr. Parsons, to mean in the office hours or during the period of the entire year while they were engaged in the office beyond office hours.

Q. I do not ask you with reference to time ; what I wish to ascertain is whether the persons who are assumed to render the service for which this extra charge is paid are not searchers themselves ?

A. I assume it is.

Q. Is there then any mode of ascertaining what is ~~the~~ total amount of this extra charge which came to ~~the~~ searchers?

A. It can be ascertained I believe from the searcher's books.

Q. If the books are correctly kept?

A. Yes, sir.

Q. But how can that fact be verified?

A. Unless the searcher verifies it himself.

Q. To make that question there be involved the necessity of examining the searcher, and then assuming the accuracy of his statement?

A. I think so.

Q. The practical result of the explanation which you made this morning seems to be (and I wish to ascertain whether this is so) that the net income of your office for the year 1886, and either already paid or due, was \$47,304.78?

A. That conforms with the figures on my statement; yes, sir.

Q. Won't you look and see?

A. (Examining the statement.) Yes, sir. \$47,304.78.

Q. When was the arrangement made with the Title Guaranty Co.?

A. I think my attorney made it in April or May of 1886.

Q. When did you obtain the information upon that subject which you have stated to-day?

A. I took occasion to inform myself of the details on Saturday afternoon.

Q. What explanation can you make of your being kept in ignorance on this subject from the Spring of 1886, down to March, 1887?

A. I asked him to make the best settlement he could in my behalf, to discontinue the suit, and he reported that he had made a settlement, and I asked him no details.

Q. Why not?

A. Because I turned the matter over exclusively to him on my behalf.

Q. Describe particularly the arrangement which you understand to exist with the Title Guaranty Co.?

A. That I was to afford them facilities for their employees in consideration of the discontinuance of the suit against me, and the rights which I believe they had secured by judicial decisions, and in order to terminate, if possible, the possibility of a verdict against me for damages.

Q. During what length of time is this arrangement to continue?

A. I think it ends in the present year some time.

Q. I wish you would explain a process by which a suit for \$20,000 damages was turned into the payment by the Title Guarantee Company of \$5,275 to you?

A. I assume their desire to expedite their work.

Q. Was there any negotiation between you personally and any one upon this subject?

A. Nothing, except what I have already testified to.

Q. Did you see any person connected with the Title Guaranty Company upon this subject?

A. I did, with reference to my custodian.

Q. Whom did you see?

A. Mr. Kelsey, as already testified.

Q. When did you see him?

A. Along in the spring.

Q. Have you any information upon the subject of the total amount paid by the Title Guarantee Company?

A. Only what I have been told.

Q. From whom did your information come?

A. My attorney.

Q. Exclusively?

A. Yes, sir.

Q. Have you not heard that the amount paid by the Title Guarantee Company was largely in excess of the \$5,275 reported to you by your attorney?

A. I have not.

Q. Senator Murtha, about what is the average fee received for the record of a mortgage?

A. I think I can answer that question by reference to a paper. The average cost for recording deeds is from \$1.25 to \$2.00.

Q. Between those figures what you regard as the average?

A. About \$1.75.

Q. What is the average fee for the record of a mortgage?

A. From \$1.50 to \$2.

Q. Between those figures what do you regard as the average?

A. About \$1.75. There are, however, exceptional cases, where long mortgages, such as corporation mortgages, would cost \$3.

Q. Is not the average charge for the record of mortgages as much as \$2?

A. Ordinarily, I should say yes.

Q. More rather than less, is it not, Senator Murtha?

A. I couldn't answer that specifically.

Q. Is not the amount invariable charged, save in exceptional cases, \$2.75?

A. When certificates are attached \$2.25; or acknowledgments taken out of the county and requiring the County Clerk's certificate, where the acknowledgment is taken——

Q. Does it not then exceed \$2.25?

A. No, sir; not the average.

Q. Are you able to state either with accuracy or approximately the number of deeds recorded in 1886 and the number of mortgages?

A. Not without reference to my index.

Q. I will thank you to obtain that information and communicate it to the Committee?

A. I will.

(Mr. McLaughlin was then recalled to the stand.)

Hugh McLaughlin recalled and further examined.

BY MR. PARSONS: Q. Have you not here the stubs of the check books from which were taken the checks about which you were interrogated on Saturday?

A. Yes, sir.

Q. Please to produce the checks themselves?

A. I produce them.

(The witness produces five checks, four on the Trust Company and one on the Fulton Bank, being the checks exhibited at the last hearing.)

Q. Refer to the entry against the check of November 7, 1885, for \$12,000, the check being to the order of Charles B. Farley, drawn on the Trust Company and numbered 193?

A. I have it.

Q. Read it?

A. (Reading.) Check No. 193, November 7, 1885. Charles B. Farley, \$12,000.

MR. PARSONS: Let me see the entry, please.

(The stub-book containing the entry is handed to counsel.)

Q. Have you your cash account with the Brooklyn Trust Company here?

A. No, sir.

Q. Will you have here the two books of the cash account that you had here on Saturday?

A. The two books and the bank book?

Q. Yes; do you understand the books to which I have thus far referred?

A. I know the two books that you refer to.

Q. What do you mean by the bank book?

A. The book that I make our deposit in the bank by.

Q. The deposit book?

A. Yes.

Q. Will you also have that brought here; is there a book showing the amount of poundage which the Sheriff receives?

A. No, sir.

Q. Is there no record of the amount of poundage which is paid to the office ?

A. No.

MR. PARSONS: Will you please have those two cash books brought here ?

Q. Turn now to the stub-entry of check No. 252 on the Trust Company, dated February 13, 1886, the check being to the order of Charles B. Farley for \$13,618.75 ?

A. I have it.

Q. Read the stub-entry.

A. (Reading.) Check No. 252, November 13, 1886. C. B. Farley, \$13,618.75.

Q. Turn next to the stub-entry of check No. 307, the date being May 3, 1886, and the check being on the Trust Company to the order of Charles B. Farley for \$5,000.

A. I have it.

Q. Read it.

A. (Reading). No. 307, May 3, 1886, Charles B. Farley, \$5,000.

Q. Turn next to the entry of check No. 432, dated November 13, 1886, in favor of Charles B. Farley, for \$15,000, drawn on the Trust Company ?

A. I have it.

Q. Read it, please.

A. (Reading). Check No. 432, November 13, 1886, C. B. Farley, \$15,000.

Q. Turn next to the entry in the book of checks on the Fulton Bank of check No. 140, dated May 3, 1886, in favor of Charles B. Farley for \$5,000 ?

A. I have it.

Q. Read it.

A. (Reading). Check No. 140, May 3, 1886, Charles B. Farley, \$5,000.

Q. What is the explanation of the fact that these checks are entered in the cash book which you produced here on Saturday as being for disbursements, and that no such memorandum appears in the stub entry ?

A. Well, I have a system of keeping books myself.

That was only put in for my own curiosity. It was disbursed by me, and I paid it out. I entered it there. That is all the explanation that there is about it.

Q. Did you pay out the money?

A. No, sir. I keep the books, and gave the check out, and certainly I ought to enter in there what it was.

Q. Why, then, did you not make such entry in the stub of the cash book?

A. Because I didn't think it was necessary to make such an entry in the stub of the cash book in paying the man his own money. I had nothing to do with the checks. I wanted to keep my books straight, so as to know where it went when I was called on.

Q. In whose name is the account in the Fulton Bank kept?

A. Charles B. Farley.

Q. What is the explanation of the fact that the five thousand dollar check of May 3, 1886, on the Fulton Bank is signed not by Charles B. Farley but by Hugh McLaughlin, Under Sheriff?

A. It was signed that way because I had that amount of money in the office and I had authority to sign checks. I sign checks for all the office business and for paying executions and paying the clerks and the equity clerks in the office. The money is deposited in the Fulton Bank in a separate account for the office matters, and I deposited the money there with the authority to draw it out under my own name.

Q. Did you draw all the checks on the Fulton Bank?

A. Yes, sir.

Q. Did you draw any checks in the Brooklyn Trust Company account?

A. Of his?

Q. I don't know whether they were his or yours; I want to find out whether you drew any of them?

A. If you will explain what you want—why, if you have reference to his, I will answer it.

Q. Do you regard the account in the Fulton Bank as your account or his account?

A. His account.

Q. But you sign the checks ?

A. Yes.

Q. Did the same thing take place that the account that you describe as yours, in the Trust Company ?

A. No, sir.

Q. Were all the checks on the Trust Company account signed by Mr. Farley ?

A. Belonging to him, yes.

Q. What do you mean by "belonging to him ?"

A. Why, his money.

Q. Without reference to the question whether the money was his or yours or anybody's else, will you be kind enough to state whether all the checks against that account were signed by Mr. Farley ?

A. As far as his business is concerned, yes.

Q. What class of checks were signed by somebody else ?

A. My own individual checks when I wanted to draw money.

Q. Can you identify which of the checks against that account were signed by Mr. Farley, and which by yourself ?

A. There was none signed by me on that account. I never sign any checks on his account in the Trust Company.

Q. Do you mean that you had a separate account with the Trust Company ?

A. Oh, yes. I have had it there twenty years nearly.

Q. An account kept in your own name ?

A. Yes, sir.

Q. I do not allude to any such account ?

A. That is what I wanted to know for, if you have any reference to money belonging to his account. I never signed a check for money belonging to his account. I never signed one.

Q. Was there any Sheriff's money kept in that account, or in any account in that bank, but in your own name ?

A. No, sir.

Q. None ?

A. No, sir.

Q. Were payments for expenses or disbursements of the

Sheriff's office made out of the accounts kept in your own name?

A. No, sir.

Q. Is this what you mean to say: That in the name of Mr. Farley was kept at the Trust Company an account of the deposit of moneys and checks drawn against it, and that all those checks were signed by Mr. Farley personally?

A. Yes.

Q. Are you better able to answer to-day than you were on Saturday, what became of the \$50,618.75 drawn in these five checks?

A. What did I answer on Saturday?

Q. That you knew nothing whatever about it.

A. Nothing except what the checks were there. I filled them up and gave them to Mr. Farley, and I never seen the money, nor never knew anything about it after I drew the checks and gave them to him.

Q. Do you still adhere to the statement made by you on Saturday, that you had no conversation upon the subject with Mr. Farley?

A. On what subject?

Q. The subject of what was done, or what was to be done with the bank bills drawn upon these five checks?

Q. Do you mean since Saturday?

A. Do you mean have I had any conversation with him since Saturday or on Saturday?

Q. I do not mean that.

A. What do you mean?

Q. I mean to embrace the entire period?

A. Up to now?

Q. Up to now.

A. About the money for those checks? Yes, I spoke to him on Saturday about it.

Q. Was that the first time?

A. Yes, sir.

Q. Did you learn from him on Saturday what was done with the bills drawn upon these five checks?

A. No.

Q. What conversation did you have with him on Saturday?

A. Well, we left here and went to the office, and I thought it was somewhat strange, and I says to him, "How is it you stated on the stand that you had that money down in the jail?" "Well," he says, "I have got it there." "Well," I says, "why didn't you put it in some of the Dime Savings Banks?" "Well," he says, "they might bust." I had no more conversation with him about it; that ended it; that is all I said to him on Saturday. These are the two books that you have reference to, I presume, that you requested me to have brought here.

Q. Yes. At what hour of Saturday did this conversation take place?

A. It was a few minutes after we left here. I went over to the office with the books to put them away, and I was sitting at my desk and he came in.

Q. Have you been in the jail since Saturday?

A. No, sir.

Q. Have you seen any of that money?

A. No, sir.

Q. Have you seen any considerable amount of bills on or since Saturday?

A. None except what I had in my own pocket.

Q. Was that a large amount?

A. Well, not very large, no.

Q. Did it approximate this sum of \$50,618.75?

A. Eh?

(At the request of counsel the stenographer read the question to the witness.)

THE WITNESS: What do you mean by "approximate?"

MR. PARSONS: Did it come anywhere near it?

THE WITNESS: Oh, well, that is my private affair. There is no use, Counsellor, for your dallying and fooling to get me to tell you what I do with my own money, or to tell you my private affairs. What money I got of my own I put in my bank or in my pocket and I keep it there.

Q. I want you to tell me what transaction in bank notes has passed between you and Sheriff Farley since you and he were examined on Saturday ?

A. Well, I will tell you if you want to go back since 1885 up to the present time, none. Now I will go way back and come up to to day ; none.

Q. I have not asked you to go way back.

A. Well, I will come clear down to to-day.

Q. I want to know what transaction in bank bills or notes has passed between you and Mr. Farley since your examination on Saturday ?

A. None.

Q. Where do you keep your bank account ?

A. Where I please.

Q. Name the bank ?

A. I will not ; that is sacred to me and nobody else.

Q. Do you keep any other bank account than that in the Brooklyn Trust Company ?

A. Do I ?

Q. Whom do you suppose I am asking about ?

A. I don't propose to tell you anything about my business ; I am not on trial.

Q. Have you any objection to tell where you keep your bank account ?

A. Not if you will ask me outside. But I don't propose to be forced to tell you where my bank account is kept. I will tell anybody that on the outside.

Q. Have you any objection to state as a witness under examination before a Committee of the Legislature where you keep your bank account ?

A. I have no objection to tell you anything about the office with which I am connected ; but when it comes to my private business, the Committee has no title to investigate my private affairs, as I understand. I do not think the Legislature or anybody else has any power over my private business. If I sell a horse and put the money in Jones' hands that is my business, and the Legislature has no control over that ; and if Jones don't pay it and I lose it the Legislature won't make it good ; that is all.

Q. But suppose \$50,618.75 of money paid by the community through the Sheriff's office comes into your hands or any part of it comes into your hands, do you think that corresponds with the horse transaction that you have just described ?

A. Well, it doesn't come into my hands to start with.

Q. Will not your bank account show what moneys have come into your hands and when ?

A. Yes.

Q. What objection then have you to permit an examination of your bank account ?

A. No, sir, it is none of Mr Farley's and never was.

Q. What objection have you to state the bank in which your account is kept ?

A. Well, I don't want to be forced to. I say I will tell you outside as a private matter, but it doesn't belong to this investigation and does not come within the resolution. When I am under investigation as to my bank account and where I keep it, I will answer that question. I assume I have a right to keep my bank account where I please, or to keep my money in my pocket. I don't think that concerns anybody.

Q. Under dates of May 1st and May 2d, 1885, there are entered in the cash account with the Brooklyn Trust Company as disbursements, two items, one of \$2,000 and another of \$500, described as notes. Explain those items.

(Counsel presents book to witness showing page 3.)

A. That is my understanding just as it reads ; a note to Felix Campbell given by Sheriff Farley. The other was a note of the Brooklyn City Bank.

Q. What do you mean by notes—promissory notes ?

A. Yes, sir.

Q. Why are they put down as disbursements of the Sheriff's Office ?

A. They are put down to keep my book right, I presume.

Q. Does that mean notes of Sheriff Farley ?

A. Yes, sir.

Q. Promissory notes given by him ?

A. Yes, sir.

Q. Given by him when ?

A. Well, that I don't know.

Q. Does he give notes in his official capacity as Sheriff ?

A. Well, I should think not.

Q. Why then in an account of Sheriff's moneys do you enter notes not given by him as Sheriff ?

A. Well, it is because I drew the check to pay the note.

Q. How did you know there was such notes ?

A. Because I seen it.

Q. When did you first see them ?

A. Well, I think I see them, I couldn't tell whether when they became due or a little while before.

Q. Where they then in bank ?

A. No.

Q. Who held them ?

A. I think the bank held the \$500 one ; I think Mr. Campbell held the other one.

Q. What is the explanation of Mr. Farley giving notes for \$2,500 at a time when he seems to have very large amounts to his credit in the Trust Company and an immense amount of bills at the jail ?

A. Well, if the gentlemen will go back and find that this is only along two or three months that he was in office, that he did not have a great deal of money, and that he had to buy a good many things, I suppose, and he borrowed that money of those people. I don't know any other reason. He could not have a great deal of money in two or three months. I suppose as soon as he got it he paid what he owed. That is all.

Q. I make the same inquiry about two notes, each of \$500 entered as paid May 11, and May 12th, 1885 ?

A. Well, that was the money that he borrowed.

Q. Do those entries mean that those amounts were paid at those dates on notes previously issued by Mr. Farley ?

A. Yes, sir.

Q. I make the same inquiry as to a note entered as paid on June 19, 1885, \$1,141.83 ?

A. That is a note given by Mr. Farley to Mr. Stegman, the late Sheriff, for the vans and horses and things that he had when he went out ; he gave him a note when he went in,

and he paid up all his debts as soon as he got it. He had nothing when he went in, nothing to run on.

Q. Don't these books show all the disbursements made by the Sheriff?

A. Well, I presume they do.

Q. Please to explain, then, why you should enter both the disbursements made for the purchase of vans and other things, and also a note out of which you think the money was obtained to make the payment?

A. Why should I enter it there?

Q. Yes. Is not that making the charge twice?

A. No, sir; I don't think it is making the charge twice. If the Sheriff was owing you \$500 and he wants to pay it and I am keeping the books I enter it down there to keep my accounts straight.

Q. But if on the \$500 note the \$500 is obtained and it is used to buy the horses, &c., and then you enter the payment of that amount for the horses and enter the note well, are you not making the entry twice?

A. That is the way the note is given; when it is drawn it is like buying a horse on the first of January; giving a note and at the end of that time he pays it.

Q. You mean to be understood there is no charge in the book of expenses paid out of the proceeds of these notes that the first charge was made when the notes matured?

A. No, the notes were given some time ahead of that; when they came due they were paid.

Q. Who is Mr. McCarty to whom a note of \$500 was paid?

A. Who is he? He is an Alderman I believe.

Q. Who is Mr. Finley, to whom a note of \$500 was paid?

A. He is some intimate friend of Mr. Farley.

Q. Who is Mr. Campbell, to whom a note of \$2,000 was paid?

A. He is member of Congress from the district.

Q. Who held the note of \$500, the payment of which was made to the Brooklyn City Bank?

A. I couldn't tell you.

Q. The date is May 2d, 1885?

A. Let me see my book. Maybe I can help myself.

Q. The date is May 2d, 1885 ?

A. Have you reference to that \$25 note ?

Q. No, I refer to a \$500 note ?

A. I don't see anything on May 2d.

Q. It is on my memorandum May 2d, it may be May 3d?

A. I have not got the book here. If I get the check here likely I can tell.

Q. How long will it take you to obtain this information ?

A. I don't know.

(Witness examines collection of checks.)

MR. PARSONS : I will ask you to leave the stand, and, while another witness is under examination, to ascertain the name of the holder of that note at the time it was paid.

MR. McLAUGHLIN : Yes, sir.

Charles B. Farley recalled and further examined :

By MR. PARSONS : Q. Have you been present while Mr. McLaughlin has been under examination this morning ?

A. Yes, sir, a portion of the time.

Q. He was asked to explain a note for \$2,000 which, according to entries in your books, appears to have been paid May 1st, 1885, to Mr. Campbell. What was that note given for ?

A. To Mr. Campbell ? \$2,000 ? That was a private matter, Counsellor, of my own; I object to answering that.

Q. He was also asked to explain a note which, according to entries in your books, appears to have been paid May 2d, 1885, at the Brooklyn City Bank for \$500. State what that note was given for and to whom it was given ?

A. That is a private matter and I object to answering it.

Q. The same question was put to Mr. McLaughlin about a note which according to entries in your books appears to have been paid on May 11th, 1885, to a Mr. Finley for \$500. What explanation have you to make about that ?

A. Just the same. It was a private matter, Counsellor, and I object on that ground.

Q. A similar question was put to Mr. McLaughlin about a note for \$500 which according to entries in your books appears to have been paid on May 12th, 1885, to Alderman McCarty. What was that given for?

A. That was a private matter between the Alderman and myself, and I decline answering that question.

MR. COLE: What are these marked—disbursements?

MR. PARSONS: Yes, sir; disbursements of the office. I am going to that in a minute, according to the books.

Q. A similar question was put to Mr. McLaughlin about a note which according to the entries in your books appears to have been paid on June 19th, 1885, to Mr. Stegman for \$1,141.83. What was that given for?

A. To Stegman?

Q. Yes.

A. That was a private matter between the ex-Sheriff and myself; I don't think I have got a right to answer that, have I, gentlemen; have I got a right to answer it?

THE CHAIRMAN: You will so answer, Mr. Farley.

A. I object; it is a personal matter.

BY MR. PARSONS: Q. Why was there entered in the books of your transactions as Sheriff the payment of all these notes you describe as being private matters?

A. Well, they were all private matters to me, Counsellor, and I object to answering them questions.

Q. Are you aware that in your books, the books containing accounts of your office as Sheriff, these notes are entered as paid for disbursements?

A. Well, your Honor, I left that to the honor of my Under Sheriff, and I guess he wouldn't do anything wrong towards me.

Q. But if these payments represented disbursements of your office what justification is there for your describing them as private matters?

A. Well, they are private matters, and I decline answering; they are all private matters; and if my Under-Sheriff has kept his books in that way I will be responsible for what the Under-Sheriff does in that way; I have the fullest con-

fidence in my Under-Sheriff, and that is a private matter of my own, and you know that yourself, Counsellor; you know what that is.

Q. Since your examination Saturday has a subpoena been served upon you?

A. Yes, sir.

Q. Produce it.

A. I have not got it now; I haven't got it with me.

Q. Did not that subpoena require you to produce all entries, memoranda, papers and writings of every kind and description relating to the use of any and all sums received by you from the Brooklyn Trust Company and the Fulton Bank?

A. Yes, sir.

Q. Have you obeyed the subpoena?

A. No, sir.

Q. Why not?

A. Well, it is a private matter of my own, Counsellor, and I don't think I had a right to.

Q. Was there not on the subpoena a notice that you would be expected to show item by item what was done with the bills into which were changed the checks drawn by you on the Brooklyn Trust Company and the Fulton Bank, and particularly to prove fully and completely how much of the bills received by you remain at the jail, or in any other, and if so, what place?

A. Yes, sir.

Q. Have you complied with that instruction or request?

A. No, sir.

Q. Why not?

A. Well, that is a private matter of my own Counsellor. I object.

Q. Sheriff Farley, is it not your misfortune that going to the war, as you did when other persons were at school, that you failed to learn to read and write?

A. No, sir. I guess I have not got a college education, sir.

Q. Are you able to keep an account?

A. I should think I would.

Q. I beg your pardon ?

A. I think I would, sir.

Q. Have you ever informed yourself about the accounts of your transactions as Sheriff which appear in the books which have been produced by Mr. McLaughlin ?

A. No ; not much. Only in conversation with the Under Sheriff once in a while. I had the fullest confidence that he would not rob me or take anything away from me. We never have had a real settlement.

Q. Are you able to verify the accounts in these two books ?

A. Well, I guess I would.

Q. Are you able to foot up the columns of disbursements ?

A. Well, I object. I won't answer that.

Q. Are you able to foot the column of receipts ?

A. I object.

Q. Have you ever read the items which appear in these books ?

A. Partly ; yes, sir.

Q. To what extent ?

A. A very small extent.

Q. Name any item in any of these books which have been here, whether the two cash books or the check books, which you can remember of having seen before this investigation ?

A. Well, that is a private matter of my own, Counsellor, and I object to that. (To the Chairman.) I ask the counsel if I must answer that. Must I answer that ?

MR. PARSONS: Mr. Farley, I will ask the Committee to determine that question later.

Q. What part of the acts with which you have been connected since January 1st, 1885, when you entered upon your duties as Sheriff, do you regard as public, and what part as private ?

A. A private matter is what I draw out. Is that proper ?

Q. I want to find your idea about the distinction between what is public and what is private ?

A. Well, my private matter is that as far as my bank account is concerned, I don't think I have a right to answer the questions the counsel puts to me.

Q. Does it then come to this, Mr. Farley — and by the request of the reporters at the table, I will ask you to talk louder, because whether this is a public or a private matter, the public seems to feel a great deal of interest in it — Does it come down to this, that you mean to refuse to the Committee any explanation whatever of what has become of the moneys drawn by you in bank bills or notes on these five checks amounting to \$50,618.75 ?

A. Yes, sir.

Q. Do you mean to persist in that refusal in spite of the direction of the Committee to the contrary ?

A. Yes, sir.

Q. Does your refusal proceed upon any idea that your answers to these questions would criminate you ?

A. No, sir : no, sir ; I hope not.

Q. With whom since your examination on Saturday have you had conversation about your further examination by the counsel of the Committee ?

A. Well, I don't know as I had conversation with any one in particular ; a good many would meet me and ask me what I thought of the case. They asked me if I was subpoenaed, and I told them yes.

Q. Who asked you if you had been subpoenaed ?

A. Well, my counsel.

Q. To whom did you say you would do the best you could ?

A. My counsellor.

Q. Is he the only person with whom you have conversed since your previous examination ?

A. No, sir ; I have had conversation a little while with the under Sheriff.

Q. Do you mean Mr. Hugh McLaughlin ?

A. Yes, sir.

Q. Where did this conversation take place ?

A. In in the Sheriff's office.

Q. State the conversation ?

A. Well, Mr. McLaughlin commenced about my drawing my money out of the Trust Company, and in the conversation he wanted to know why I didn't put it back again and I told him I didn't know ; that I could hold the money

Q. I beg your pardon ?

A. I think I would, sir.

Q. Have you ever informed yourself about the accounts of your transactions as Sheriff which appear in the books which have been produced by Mr. McLaughlin ?

A. No ; not much. Only in conversation with the Under Sheriff once in a while. I had the fullest confidence that he would not rob me or take anything away from me. We never have had a real settlement.

Q. Are you able to verify the accounts in these two books ?

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Q. Are you able to foot up the columns of disbursements ?

A. Well, I object. I won't answer that.

Q. Are you able to foot the column of receipts ?

A. I object.

Q. Have you ever read the items which appear in these books ?

A. Partly ; yes, sir.

Q. To what extent ?

A. A very small extent.

Q. Name any item in any of these books which have been here, whether the two cash books or the check books, which you can remember of having seen before this investigation ?

A. Well, that is a private matter of my own, Counsellor, and I object to that. (To the Chairman.) I ask the counsel if I must answer that. Must I answer that ?

MR. PARSONS: Mr. Farley, I will ask the Committee to determine that question later.

Q. What part of the acts with which you have been connected since January 1st, 1885, when you entered upon your duties as Sheriff, do you regard as public, and what part as private ?

A. A private matter is what I draw out. Is that proper ?

Q. I want to find your idea about the distinction between what is public and what is private ?

A. Well, my private matter is that as far as my bank account is concerned, I don't think I have a right to answer the questions the counsel puts to me.

Q. Does it then come to this, Mr. Farley—— and by the request of the reporters at the table, I will ask you to talk louder, because whether this is a public or a private matter, the public seems to feel a great deal of interest in it—— Does it come down to this, that you mean to refuse to the Committee any explanation whatever of what has become of the moneys drawn by you in bank bills or notes on these five checks amounting to \$50,618.75 ?

A. Yes, sir.

Q. Do you mean to persist in that refusal in spite of the direction of the Committee to the contrary ?

A. Yes, sir.

Q. Does your refusal proceed upon any idea that your answers to these questions would criminate you ?

A. No, sir : no, sir ; I hope not.

Q. With whom since your examination on Saturday have you had conversation about your further examination by the counsel of the Committee ?

A. Well, I don't know as I had conversation with any one in particular ; a good many would meet me and ask me what I thought of the case. They asked me if I was subpoenaed, and I told them yes.

Q. Who asked you if you had been subpoenaed ?

A. Well, my counsel.

Q. To whom did you say you would do the best you could ?

A. My counsellor.

Q. Is he the only person with whom you have conversed since your previous examination ?

A. No, sir ; I have had conversation a little while with the under Sheriff.

Q. Do you mean Mr. Hugh McLaughlin ?

A. Yes, sir.

Q. Where did this conversation take place ?

A. In in the Sheriff's office.

Q. State the conversation ?

A. Well, Mr. McLaughlin commenced about my drawing my money out of the Trust Company, and in the conversation he wanted to know why I didn't put it back again and I told him I didn't know ; that I could hold the money

as well as the Trust Company ; I was afraid if it r break up or something, and I thought I would hold money myself.

Q. Were you sincere in making that statement to Hugh McLaughlin ?

A. I am under oath. Yes, sir.

Q. Why did you put \$50,618.75 in a Trust Company which you thought it was unsafe to have it remain there ?

A. That was only a jest as far as the bank busting concerned. I did not mean it, you know, as any reflection on the bank. I meant that when Mr. McLaughlin made that suggestion to me that I should put it in the bank I thought I should be the best judge who should hold the money.

Q. Have you had any money transaction since you were examined on Saturday ?

A. Money transaction ?

Q. Yes.

A. No, sir.

Q. Have you seen any large amount of bank bills since you were examined on Saturday ?

A. No, sir. I have not. Only what I have here in my pocket, about fifty dollars or a hundred dollars that I carry with me to pay my expenses as I go along.

Q. Are you able to inform the Committee what amount of bank bills, if any, you have at the present time at your place ? Are you able to do it ?

A. Yes, sir ; I am able to do it.

Q. What is the amount ?

A. Well, I object. There is no reason, Counselor (To the Chairman). You ought to help me out a little on this, Colonel. I am as straight and as honest as a shooting star, giving or trying to find out whether I gave money or not. I never gave a dollar and never will. I will hold on. This is my last crack and I will take care of it.

Q. Are you clear that you paid \$6000 to your father-in-law, Mr. Farley, out of that \$15,000 check ?

A. Am I sure of that ?

Q. Yes.

A. Well, he got the money.

Q. Did he get it out of the proceeds of that check ?

A. Yes, sir.

Q. Who was present, on any occasion, when either of these checks was drawn at the bank or Trust Company ?

A. Well, I disremember. When I went to the bank on one occasion I met two or three gentlemen there that I knowed personally for a good while. I met Dr. Shepard there, and I met Mr. Oakes, the President of the Trust Company ; and I met my counsel in the bank at the bank door.

Q. Did he go with you ?

A. No, sir ; I met him on Montague street, going up to the bank. I am not sure now, Counselor, whether I met him in the bank or at the door. I met him on the street, I think, to the best of my opinion at that time ; I met him on the sidewalk.

Q. In addition to the notes which were brought to the attention of Mr. McLaughlin, and about which I have asked you, there were paid, according to entries in these books, these notes, each entered as a payment of disbursements : " 1885, April 25, J. J. Kiernan, \$500. 1885, October 30, Thomas Carrol, treasurer, \$500. 1885, November 9, Ingberman, note, \$1,000." What were those notes given for ?

A. That is a private matter, and I object.

Q. Who is Mr. J. J. Kiernan ?

A. Well, he is a citizen of this city and county, or he was at that time. I am not sure whether he is living here now or in Albany. I know he has a residence in Brooklyn.

Q. Did he ever hold any public position ?

A. Yes, sir.

Q. What ?

A. I think he represented one of the districts here in the Senate.

Q. Of what company was Mr. Thomas Carroll Treasurer ?

A. That I don't know, sir.

Q. To whom was given the note that was paid to Mr. Thomas Carroll, Treasurer ?

MR. SHEPARD: I think that was not a note. That was simply a payment.

BY MR. PARSONS: Q. Of what was Thomas Carroll treasurer on October 30th, 1885, when out of the receipts of your office there was paid to him the sum of \$500 according to your official books?

A. What was he what, sir?

Q. Treasurer?

A. That I don't know.

Q. Why, then, did you pay him \$500 as treasurer?

A. That is a private matter, Counselor. That is a private matter between myself and the colonel.

Q. Who is the colonel?

A. Col. Carroll.

Q. Is he both colonel and treasurer?

A. As far as his treasurership is concerned that is a private matter; as far as his colonelship is concerned it is a public matter and everybody calls him colonel.

Q. Who is Mr. Ingerman?

A. That is Mr. Ingerman, if I don't mistake, Mr. George Ingerman.

Q. Is he a private matter?

A. Well, yes; that is a private matter.

Q. Will you look at this entry and read it to the Committee?

A. That I object to. I did not come here to read. I came here to give evidence on this case, Counsellor, and object.

Q. What is the fact as to whether you are able to read that entry or not?

A. Well, that is a private matter of my own. I wouldn't go that hard with you, Counsellor. I would let you or your client do it easier than that.

Q. Then I will read the item. Will you listen to it?

A. Yes, sir.

Q. "September 21st, 1886, by cash for disbursements, Andrew McLean, \$250." I also read to you these items:

"1886, September 30, by cash for disbursements, Andrew McLean, \$250."

"1887, February 12, by cash for disbursements, A. McLean, \$200." Who is the gentleman there referred to?

A. He is a gentleman who lives in the City of Brooklyn.

Q. What is his position?

A. His position is managing editor of the Brooklyn Citizen.

Q. What had he to do with the Sheriff's Office? What explanation is there that among the disbursements from the fees received from the Sheriff were these payments to Andrew McLean, managing editor of the Brooklyn Citizen?

A. Well, Counsellor, that is a private matter, and it concerns myself. I don't think the counsel ought to ask that.

Q. Did you have anything to do with the transaction which is represented by those payments to Mr. Andrew McLean; did you have anything to do personally with the transaction represented by those payments to Mr. Andrew McLean?

A. I had all to do with it.

Q. What expense of your office was paid by that means?

A. Well, that is a private matter. Is not that a private matter, Counsellor?

MR. COLE: I think that is a public matter, Sheriff.

A. No, that is not a private matter; I don't look at it such; that is my private money, and I object.

By MR. PARSONS: Q. Have there been other transactions than those represented by these three entries between you and Mr. Andrew McLean?

A. No, sir.

Q. Never any?

A. No, sir.

Q. Before or since?

A. No, sir.

MR. PARSONS: I now repeat to the witness certain inquiries to take the direction of the Committee in reference to them. I will put them right here so that the ruling may come in connection with the question.

Q. Mr. Farley, you are asked to state what expenditures or disbursements of your office are represented by these

three payments made to Mr. Andrew McLean. Are you willing to do it?

A. That is a private matter, counsellor, of my own. I has got nothing to do with it and I object to it.

Q. Do you decline to answer the question?

A. Yes, sir; I decline to answer it.

Q. Do you do it upon the ground that the answer might criminate you?

A. No, sir.

MR. PARSONS: We ask the Committee to act upon the matter.

CHAIRMAN BACON: The Committee direct that the witness answer the question just put by the counsel.

MR. GREENE: The majority of the Committee.

A. I object, colonel, on the ground it is a private matter.

BY MR. COLE: Q. This is the book in which you keep your official accounts as Sheriff?

A. Yes, sir.

BY CHAIRMAN BACON: Q. And these accounts are official accounts?

A. They are official or private accounts of mine. The Under Sheriff keeps those books, you know.

Q. They are accounts relative to your office?

A. To the disposing of the profits there and other matters. To the expenditure of money, private money; that is a private matter.

Q. Have you any books that give the public matters?

A. Yes, sir.

Q. Which are they?

A. My public matters over there is the books of the Equity Clerk, the chief clerk of the office, what the Under Sheriff keeps himself the foreclosures and all such matters.

Q. Will you point out to the Committee any items in these books that you consider not to be private.

A. I object to read the books.

Q. You object to read them?

A. Yes, sir.

Q. Why so?

A. No grounds at all. I simply object.

Q. Can you point out any items in these books that are public?

A. No, sir; I don't know as I can.

Q. Are there any public items comprised in these accounts?

A. That I would have to ask the Under Sheriff. I don't know.

Q. You could not tell of yourself whether they are private or public without asking him?

A. No, sir; because he has had charge of the books and I did not.

Q. You don't know which are private and which are public accounts?

A. Not the way the Under Sheriff has got his books, I don't.

Q. Did he tell you to consider them all as private accounts?

A. No, sir.

By MR. PARSONS: Q. Mr. Farley, is there any doubt about this, that the two books, one called "Brooklyn Trust Company, cash," and the other "Cash," and about which Mr. McLaughlin has stated that they have been kept by him—that these are books which are kept by him as Under Sheriff for you as Sheriff?

A. I guess they are, if the Under Sheriff says so. He is the gentleman I swear by. He is my friend first, last and always. If it was not for Mr. McLaughlin I don't think I would have got along as well in the Sheriff's office as I have, gentlemen.

By CHAIRMAN BACON? Q. You would not have been Sheriff at all if it had not been for him, would you?

A. Yes, sir; Mr. McLaughlin was opposed to my nomination for Sheriff. If Mr. McLaughlin was with me I might have been beat.

By MR. PARSONS: Q. What about Mr. McLaughlin would have beaten you?

A. Well, that is a private matter.

Q. Mr. Farley, please to remember that you are giving testimony in a serious and important inquiry, and do not say things that you do not mean.

A. Every word I say I mean. When I was a candidate before the convention of the Democratic party, Mr. McLaughlin was for another person altogether; he was opposed to me for a certain extent. I am sure of that because I know of delegates in the convention that he asked to vote against me and they didn't do it.

Q. Now, pass from that to these books. I want to keep the record straight about these books?

Q. Do you not regard these books as the official books of your office?

A. If Mr. McLaughlin says they are the books they must be the books. My Under-Sheriff has done all that work and if he says they are, you see—

Q. Mr. Farley, are there any official books of your office?

A. Sir?

Q. Are there any official books of your office as Sheriff?

A. Yes, sir.

Q. Produce them?

A. Well, I can't now.

Q. Why not?

A. Well, I would have to send to the Sheriff's office and get the Equity Clerk to get his book, and Mr. McLaughlin might get the other book from the chief clerk; and as far as the jail is concerned, I would have to fetch up the ledger of the jail and bring it here.

Q. What official books are kept in your office showing the receipts and disbursements of moneys by you as Sheriff?

A. Well, my foreclosure book; the book at the desk; the money that comes over the desk to the Sheriff.

Q. Are you aware that there were made to you the payments of \$50,618.75 represented by these checks?

A. Yes, sir; I think I do.

Q. Where did the money come from which made those checks good?

A. They came from the revenue of the Sheriff's office.

Q. Is that official or private?

A. That comes from the contract that I have with the city and county for feeding prisoners.

Q. Do you mean that C. B. Farley had or that C. B. Farley, Sheriff of the County of Kings, had?

A. C. B. Farley, Sheriff.

Q. Do you not see then that these two cash books are the books which show the receipts or which purport to show the receipts and disbursements by you as Sheriff of the County of Kings?

A. Well, McLaughlin has kept them books, don't you understand, counsellor. There are public matters in there and Mr. McLaughlin can explain that better than I can. That is what I told you on Saturday.

Q. Can Mr. McLaughlin explain better than you this Andrew McLean transaction?

A. Sir?

Q. Can Mr. McLaughlin explain better than you the payment of these three sums making together \$700 to Andrew McLean?

A. Well, I don't think Mr. McLaughlin, between you and me, knows anything about that, only I told him to make out the checks and he made them out and I gave them or sent them to Mr. McLean.

Q. I repeat the question which asks you for what liability or disbursement or expense of your office or for what other cause there were made these three payments to Andrew McLean?

A. Nothing attached to my office, good, bad or indifferent. It was a private transaction.

MR. PARSONS: I desire to close the subject and ask the Committee, if such is its pleasure, to instruct the witness to answer the question.

CHAIRMAN BACON: The Committee instruct you to answer the question as put by Mr. Parsons.

A. Well, I object, counsellor.

Q. Do you refuse?

A. I refuse. It is a personal matter, and I refuse.

BY MR. PARSONS: Q. I ask you to state what disbursement of your office was paid or is referred to in the entry in your cash account with the Brooklyn Trust Company which reads, "May 1, 1885, by cash for disbursements, F Campbell, note, \$2,000?"

A. Well, that is a matter of my own, and I object to answering.

MR. PARSONS: We ask that the Committee instruct the witness to answer.

CHAIRMAN BACON: The Committee instruct you to answer the question, and direct you to answer.

A. Well, I object; that is a private matter.

Q. Do you refuse?

A. I refuse; that is a private matter.

BY MR. PARSONS: Q. You refuse?

A. Yes, sir.

Q. We ask you to state what disbursement or expense of your office or other transaction is referred to in the entry in the same book under date May 2d, 1885, which reads "By cash for disbursements, Brooklyn City Bank, note, \$500?"

A. That is the same. I object.

Q. Do you refuse to comply with the direction of the Committee?

A. Yes, sir; on the ground it is a private matter of my own.

MR. PARSONS: I think it is better the record should show that the Committee directs the witness to answer.

CHAIRMAN BACON: The Committee direct you to answer the question just as asked. Do you refuse?

A. Well, Colonel, I refuse on them grounds. It is a personal matter of my own.

BY MR. PARSONS: Who is the Mr. Finley referred to in the entry of May 11, 1885?

A. That is John Finley.

Q. Does he hold any public position?

A. No, sir.

Q. Has he ever done so?

A. Not as I know of.

Q. How long have you been acquainted with him?

A. Well, I have been acquainted with him about 25 or 27 years.

Q. What is his occupation?

A. He was in the liquor business when I knew him first.

Q. What was his occupation in January, 1885?

A. I don't know.

Q. What business transaction, if any, did you have with him at that time?

A. I refuse to answer that because anything between Mr. Finley and myself was a personal matter.

Q. What disbursement or expense of your office or other transaction is referred to in the entry under date of May 12, 1885, in this Brooklyn Trust Company cash book which reads, "By cash for disbursement, McCarty note, \$500?"

A. What is the question?

(The question was read to the witness by the stenographer as follows: "What disbursement or expense of your office or other transaction is referred to in the entry under date of May 12th, 1885, in this Brooklyn Trust Company cash book which reads, 'By cash for disbursement, McCarty note, \$500?'")

A. That is a private matter; I object.

MR. PARSONS: The counsel asked for the direction of the Committee.

CHAIRMAN BACON: The Committee direct you to answer?

A. I object, Colonel, on the ground it is a personal matter.

Q. Do you refuse?

A. Yes, sir; I refuse; it is a personal matter.

BY MR. PARSONS: Q. What disbursement or expense of your office or other transaction is referred to in the entry in your general cash book which reads: "1885, April 25, by cash for disbursement, J. J. Kiernan note, \$500"?

A. That is a private matter, just the same.

MR. PARSONS: We ask for the direction of the Committee.

CHAIRMAN BACON: The Committee direct you to answer.

A. I refuse.

Q. You refuse to answer?

A. Yes, Colonel; that is all a private matter between Mr. Kiernan and me.

BY MR. PARSONS: Q. What transaction is referred to in the entry in your general cash book under date October 30th, 1885, which reads, "By cash, Thomas Carroll, Treasurer, \$500"?

A. That is a private matter.

CHAIRMAN BACON: The Committee direct you to answer.

A. I object.

Q. You refuse to answer?

A. Yes, sir; I refuse on the ground that it is a personal matter of mine.

BY MR. PARSONS: Q. What disbursement or expense of your office or other transaction is referred to by the entry in your general cash book which reads, "November 9, '85, by cash for disbursement, Ingerman note, \$1,000"?

A. That was the same; I object.

CHAIRMAN BACON: The Committee direct you to answer?

A. Well, Colonel, I refuse.

BY MR. PARSONS: Q. In either of these cases do you put your refusal upon the ground that the answer would tend to criminate you?

A. No, sir. I am sure of that. I have never done anything up to date in my life that I am ashamed of or afraid of.

Q. I ask you to state what amount of bills or bank notes, proceeds of these checks, or of either or of any of them, remains at the present time at the jail or in any other specific place under your control or in your custody?

A. I object.

CHAIRMAN BACON: The Committee direct you to answer?

A. I refuse to answer ; that it is a personal matter. Have I got a right to tell the Committee what I do with my money ?

MR. PARSONS : I think at this stage we will not trouble Mr. Farley with any more questions.

MR. FARLEY : Thank you.

BY CHAIRMAN BACON : Mr. Farley, your first name is Charles ?

A Yes, sir.

Q. Do you ever write it Charles ?

A. Well, seldom. I always sign my name C. B. Farley.

Q. Did you ever write it Charles in your life ?

A. Yes, sir.

Q. How often ?

A. Oh, several times, Counsellor. I am astonished that you should ask me that question.

(A person in the audience, Mr. Anthony Barrett, thereupon gave Mr. Farley some instructions about returning to the stand and claiming his books as his personal property ; thereupon Mr. Farley resumed the stand.)

MR. FARLEY : Gentlemen and Counsellor, as my private books, I would like to have them to hand them over to the Under Sheriff, if there is no objection. The books and papers connected with it, if you please.

(Mr. Parsons thereupon handed to Mr. Farley the books and the five checks ; and Mr. Farley proceeded to leave.)

BY MR. PARSONS : Don't leave the stand just yet, Mr. Farley.

Q. Why did you go back to the stand just now after you had been dismissed by the Committee and their counsel ?

A. Well, I thought I would come back and get those books. I was told by some person outside——

Q. What person ?

A. My counsel says, " You better get your books," and

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A. Well, I thought I would come back and get those books. I was told by some person outside——

Q. What person ?

A. My counsel says, " You better get your books," and

I thought I would come back and get them. Isn't that proper, Counsellor?

Q. Let us first ascertain what was said to you by the gentleman you describe as your counsel. What did he say to you?

A. He said "Go back and take the stand and recover your books."

Q. Is that all he said?

A. Words to that effect. I didn't pay much attention to what he was saying, only I wanted to get the books; that was all.

Q. Didn't he tell you to go back to the stand and tell the Committee that these books about which you have been asked were your private books?

A. Yes, sir; I think it was. I think them are the words, Counsellor. All I wanted was to get the books.

MR. PARSONS: We will call Mr. Barrett.

MR. BARRETT: I am glad you have, sir. And first I want to tell Mr. Farley, if he is off the stand, Charley, go back and tell them those are your private books of account, and I so advise you, as your counsel. Make that statement to the Committee to make that clear. Tell them that those books used by you are your private books of account, as I cut them out for you.

MR. FARLEY: Those are my private books of myself, Colonel.

MR. BARRETT: And nothing to do with the book records of the office of Sheriff at all.

BY MR. PARSONS: Q. Mr. Farley, how are you able now to testify these are your private books when a few moments ago you stated you could not tell whether they were or not?

A. Through my counsel here.

Anthony Barrett, being duly sworn and examined, testifies :

BY MR. PARSONS : Q. Are you a lawyer ?

A. I am, sir.

Q. Are you the official counsel of Sheriff Farley ?

A. I am not the official counsel of Sheriff, Counsel. I am his counsel in the broad, general sense of the term.

Q. Do you not receive——; I will withdraw that——

MR. BARRETT : Oh, no; don't withdraw it; don't be delicate about it, Mr. Parsons; don't withdraw it. There is nothing to hide on my part. I may have something more to communicate than Mr. Farley had. I happen to be, possibly, more familiar with his business.

Q. In the early part of his testimony, page 117, Sheriff Farley was asked, "Of whom the staff of his office consists?" His answer was, "The Under Sheriff is Hugh McLaughlin, and my counsel is Counsellor Anthony Barrett." Are you the gentleman there referred to?

A. I am.

Q. How long have you been a member of the Sheriff's staff—in that position?

A. I do not recognize the term you put on the Sheriff's employees, as a staff. The Sheriff is a personal officer in this County, and he has no staff. Every man is in his employ as a mere employee, and you know that as well as I do, Mr. Parsons. He has no staff. I am his counsel, and I have been his counsel from the day that he took his office, and before it. I have always been his counsel. I was his private counsel before I was a lawyer, because we happened to be together in the same regiment.

Q. Is there any part of the business of the Sheriff's office which you recognize as of a public character?

A. Some portions of it.

Q. What?

A. His custody of prisoners.

Q. Is that all?

A. His execution of criminal warrants and his execution of civil papers, papers in civil actions, and in any particular

case where he acts as Sheriff. When he is acting in : official capacity in the execution of any mandate of t Court, then he acts in an official capacity.

Q. Does he in his official capacity receive money ?

A. He does. He receives fees that are provided statute. When those fees pass into his possession th cease to be official ; they become his private property. T character of the fees are changed immediately when th reach his pocket. They are not official after that.

Q. Do you mean to be understood that he receives fees except those which are fixed by statute ?

A. I can't think of any that are strictly fees except fixed by statute. If you mean by the question that he do receive more than the legal fees I will say emphatically has never received a penny that was not his legal due ; a he don't receive the whole of that, because he divides th with his deputy and only receives half of the legal fees.

Q. Your information seems to be so complete—

A. It is very complete; more complete than anybody that office.

Q.—that I will ask you to state the gross amount of fe and of moneys received by the Sheriff and his deputy during the year 1886 :

A. I haven't figured that up. I haven't reached th yet. I possibly will though. I will go through it a I will see that he receives every dollar that belon to it, came into that office. I did the fi year of his term ; and I have been too bu to do it for the second year of his term. B I laid out the books of that office ; I laid them out in l interest, and I can go back and trace every dollar th came into that office, and I can tell at the end of the yea when I examine it completely, whether every man in t employ was honest, and whether they turned over t money. I can come within a few cents of it.

Q. What books will you examine for the purpose of : certaining whether he, as Sheriff, received all the mone which were paid to the Sheriff as such ?

A. The cash books that I prepared to be kept myse The system of private cash books, of which you had two

them here. I laid out the system in his office. And there is nothing in the law that compels him to keep any official record of his money, and the record is all a private one, laid out by me as his counsel, and to which every man in his office must conform. The Equity Clerk who receives the fees of the Sheriff in foreclosure cases has a bank account separate and apart from the Under Sheriff, with a power of attorney to draw checks, because the foreclosure money is being continually paid in and as a matter of convenience, while the account, for Farley's safety, stands in his own name, still the Equity Clerk, who is under a heavy bond for the faithful performance of his duty, has the right to draw checks on that account to settle with the lawyers who are doing business with the Equity Department, and at the end of every month he renders a statement of the profits derived from the Foreclosure Department, and pays those profits in to the Under Sheriff, who is then the custodian, and has the receipts signed on his book for every penny of it. Then the chief clerk behind the desk, who receives the fees for executions and other papers coming in of every nature, he keeps a daily petty cash account, and at the end of every evening he turns over the account and has a receipt signed on his receipt book to the Under Sheriff. The Sheriff's private account is kept in the Trust Company, because, if I recollect rightly, he derives a little interest on it there on daily balances. The Equity account was put in the Commercial Bank. I remember there was a good deal of competition for the Sheriff's accounts among our bankers in the city. The Under Sheriff who handles the executions receives all the money collected on executions and other process, and he has another account in the Fulton Bank, and he has authority to sign checks on that bank for his own convenience in dealing with lawyers when they come into the office to get the money. And whatever balances remain over, whenever I call upon them or without my calling on them, the Under Sheriff makes checks upon that to Mr. Farley, and those are deposited to his private account in the Brooklyn Trust Company.

Q. What do you know about the competition of the banks for the Sheriff's account ?

A. Well, I was recognized as a close and intimate friend of Mr. Farley about the time he was nominated and about the time he was elected, and I know that some of the gentlemen here in the Brooklyn banks, the presidents, and so forth, asked me if I wouldn't be kind enough to have Mr. Farley open an account there. Probably our bankers are not as rich as they are in New York, and want those little accounts.

Q. Do you know anything about payments or benefits of any kind received for giving the banking patronage of the Sheriff's office to any particular bank ?

A. No, sir ; not a particle—nothing at all. Simply a matter of preference.

Q. In which bank is his account of the equity moneys kept ?

A. In the Commercial, I think.

Q. With whom was the arrangement made ?

A. Mr. Vail. He is president, I think, of the Commercial bank,

Q. Did you make it ?

A. No, sir.

Q. Who did ?

A. Farley, himself. I think I was with him. I think I was with him in all the banks when he made it. I think he gave it to Mr. Vail on the ground that he was a republican, and that Farley got a great many republican votes, and he thought he ought to give him something.

Q. Do you not receive a salary as counsel to the Sheriff ?

A. I do. Well, I won't call it a salary.

Q. Why did you call it a salary ?

A. I called it a salary because you are so fond of putting those official and technical terms in the questions. I have listened to your examination here ; I have got my own opinion of it—

Q. Now as to—

A. Wait until I straighten out that answer as to the salary. I received \$2,500 compensation from Mr. Farley for my legal services during the year.

Q. As these cash books which have been produced here are—

A. Let me add one word more on that question of salary. I never asked him for a penny of salary, and I worked for him a year before he ever paid me a cent or spoke to me about it. Then he wanted to insist on giving me \$3,500 a year, and I would only accept \$2,500. You can have that. He would have given me \$5,000 if I had asked him.

Q. As these cash books which have been produced were kept by your instructions—

A. By my directions.

Q. By your directions, and as the mode in which they were kept was arranged by you will you be—

A. It was as well as I could get Mr. McLaughlin—

MR. PARSONS: Mr. Barrett, you must wait until I complete my question.

MR. BARRETT: I anticipated your question.

MR. PARSONS: I want to get the question properly on the record.

MR. BARRETT: Well, go ahead.

(The stenographer read the question, as far as framed, as follows: "Q. As these cash books which have been produced were kept by your directions, and as the mode in which they were kept was arranged by you, will you be—")

Q. (continuing.) kind enough to tell the Committee why you arranged that so many of these items should be called disbursements; and upon the question of whether they were or were not disbursements the Sheriff declined to give information?

A. I did not so understand it, but I will answer your question so that you will understand it. I did not direct in what manner the items of that cash account should be kept except in simple form, but, as you have had some experience with the Under Sheriff, Mr. McLaughlin, I think you will come to the conclusion that he is a pretty hard man to break off an old habit. I cut out the first page of that cash book for him, and my instruction was "Every

penny that belongs to Mr. Farley I want on this cash book, from all sources ; give him credit for what you received, and deposit it to his account ; charge him with what you pay out, and when you charge him, charge him to cash paid or whatever the transaction is, and when you give him credit, make as short an item as you can, stating what it is for.' He agreed to do it, but Mr. McLaughlin will keep his books in his own way if you were to go at him five or ten times a day—you couldn't change him, and I got tired of it. I don't know that there is anything wrong about it. That is a proper disbursement from my standpoint.

Q. How can we tell whether it is proper or improper if we are not told anything about it ?

A. Well, you have no right to know and no right to instruct Mr. Farley. You have no right to go into a citizen's private affairs and I instructed Mr. Farley not to tell his private affairs for the edification of this committee or any other committee, with all due respect to the Committee and to the Legislature. It is only on those grounds. And if I had been here Saturday I would have let him tell the whole thing.

Q. What has happened between Saturday and now to change your mind ?

A. Well, I simply changed my mind about it, that is all. I was out of town and I got home Saturday and I read the account in the paper and inasmuch as he took that stand Mr. Farley and I are not accustomed to going backward after we take a stand. He took that stand there and we stand on our legal rights, and if we are wrong in the law we will respond, that is all.

Q. Who has Mr. Farley relied upon to advise him about his pecuniary matters. ?

A. I think upon myself more than any other human being, probably, outside of his wife.

Q. Will you then have the goodness to inform the Committee why Mr. Farley on the occasion of each one of the checks about which there has been testimony, the aggregate amount being \$50,618.75, changed those checks into bank bills ?

A. Because it suited his convenience, I suppose. I remember I was with him when he drew some of it. I don't know the exact amount. I know that he paid me a year's salary all at one time and I was with him on that occasion. I don't remember how much money he drew. I know I advised him not to leave too much money on balance in the Trust Company inasmuch as he was getting no interest; I told him he had better draw his money out and keep the balance down and invest it. He asked me how to put it in the bank. "Don't put more than \$3,000," I remember telling him, "in any one Savings Bank, but to scatter it around." He did not make any reply to me one way or another whether he would or not. He took the money and drew it out and came to my office and gave me \$2,500, my salary for the year, which was very acceptable at the time; and he went home about his business. From that day to this I never asked Farley what he did with that money. But Farley is a truthful man, and if he said he has that money in the jail I would wager ten times the amount that he has got it there. Everybody doesn't know about banking their money.

Q Do you know anything about banking money?

A. Yes, sir; I am able to take care of my money first-rate.

Q. If you have instructed Sheriff Farley in reference to his manner of carrying on his pecuniary matters, is there any other explanation than that to which you have testified of this occurrence which perhaps may be regarded as extraordinary, of having the entire net sum coming from his office changed into bank bills?

A. I don't recognize that as an extraordinary thing for a man to draw his money out of a bank.

Q. Is it not an extraordinary thing except in respect to transactions which are usually regarded as of a criminal character?

A. Why, no. You don't seem to comprehend a man like Farley. There are a million people I know here that do business out of the general channels of ordinary trade as you or I would.

Q. A million?

A. There are people in this city—there is probably more money in the pockets of old women in this city than in all the banks together. Are you aware of that? I have had people come to me, clients of mine, that bought a house—they were possibly not among the highly educated or dudish class that monopolize all the brains, or attempt to, in the world; but honest hard-working people in the community who pay their taxes and invest in real estate and buy their little homes, and I have had them come to me with a stocking full of money that never was in the bank, half gold, kept from before the war, and they have paid that money out for their little houses in money, in actual money, and they never received a cent of interest on it. I might remonstrate with them until I was black in the face and it wouldn't do any good. That is not uncommon.

Q. Did you remonstrate with them?

A. I suppose I did.

Q. Why?

A. Because they were losing the interest on their money, and the money was safe in the banks.

Q. Were you more interested in these old women than you were in your client, Sheriff Farley?

A. Well, Mr. Farley is able to take care of his own money about as well as any gentleman I know of.

Q. Why then did you advise him about it if he is so able to attend to it himself; why did you go through this supererogatory work of advising him on the subject?

A. In the ordinary course of friendly conversation.

Q. Do you seriously mean to have the Committee understand that it is under your advice that these enormous sums have been put in the shape of bank bills or notes?

A. I didn't say so. I don't want the Committee to understand anything of the kind.

Q. Can you furnish any explanation, any explanation to the accuracy of which you can testify, of this occurrence?

A. There is no explanation necessary. He tells you the naked fact. What right have you to question his handling his own money? What right has the Committee or anybody to question it? That is his money; he drew it

out. Why should anybody attempt to smell into his private affairs? No gentleman would do it, and no Committees will do it without attempting to exceed their power

(Some demonstration on the part of the audience followed the conclusion of the above answer.)

CHAIRMAN BACON: We will have this room cleared very soon if order is not preserved.

MR. ARNOLD: Mr. Parsons, I think it should be understood now, that while this Committee is here in the discharge of a duty which they are directed to perform by the representatives of the people at Albany, and have no objection whatever to any gentleman having his sympathy or friendship for any witness under examination, that it is the duty of the audience in attendance to listen to this testimony if they desire to hear it; but it is their duty to the Committee, that they shall give no expression of their approval or disapproval of anything that is said here; and that the Committee will see to it hereafter that persons violating this rule will be punished for contempt.

By MR. PARSONS: Q. Mr. Barrett, will you state from which of these checks turned into bank bills was made that payment to you of \$2,500 salary?

A. I couldn't tell you; I only guess at it, that it was about the month of February. I know the year was over and a month had passed and nothing was said to me about the salary, and it interested me very much.

Q. Have you any objection to answering the question?

A. No, sir.

Q. I do not care what interests you, but I want you to fix the date?

A. You are asking me to fix a date, and I am trying to work it out by circumstances that enable me to fix it; I say it was about February.

Q. My question simply asks you to state the date when you received that payment of \$2,500, as to which you have testified that it came from bills drawn upon one of these checks?

A. I told you I thought it was about February of last year—1886.

Q. If by the aid of that book you can make the date more accurate please do so?

A. I cannot do it. I fix it from my own memory of transactions surrounding that fact. I did not see the book at that time. I know that every other payment I received by check from that day to this.

Q. The only check as to which it was testified that it was turned into bills in February, 1886, is a check for \$13,618.75, the date of which is February 13th, 1886?

A. I have no doubt but that is the transaction, though I really can't tell, although I helped Farley count some of the money, and he sweat over it like a bull. I think Mr. Oakes was present when we were trying to count it.

Q. Will you look at this Brooklyn Trust Company cash account, instructions for the keeping of which of you have testified you gave, and inform the Committee whether according to that account the \$2,500 was or was not paid out of the \$13,618.75?

A. I can't tell. You point it out if you can.

Q. Can't you tell as a matter of bookkeeping?

A. I don't comprehend your question. I see February 13th —

Q. The point is whether the answer you gave a few moments ago was according to the fact or not?

A. Yes, sir; I see here the \$2,500 paid to me is charged.

Q. Is it charged as paid out of the \$13,618.75?

A. I don't know what it is charged as paid out of.

Q. Do you not see that the \$13,618.75 is charged in addition to the \$2,500 to you?

A. That might be.

Q. Is that correct bookkeeping if the \$2,500 was part of the \$13,618.75?

A. I am not passing on the accuracy of Mr. McLaughlin's books. I will pass on those accounts later on, and there won't be any duplication of accounts on this cash book when I get through with it.

Q. I understood you a little while ago to say that you were protecting Mr. Farley from —

A. Certainly.

Q. You must permit the question to be completed. I

understood you to say you were protecting Mr. Farley from errors made in the mode in which his accounts were kept by Mr. McLaughlin?

A. I didn't say anything of the kind nor anything that you can infer any such statement from.

Q. What did you state was being done by you for the protection of Mr. Farley in the matter of his receiving the moneys to which he is entitled?

A. I told you that for the first year of his office I have gone through every account in his office, proved every account to see that he got every cent that was coming to him. I intend to go over the accounts of 1886 when I get time. The only reason I have not done it yet is because I have been too busy, but I will do so, and when I go over that account I tell you there will be no duplication of a penny. There was not any duplication in 1885. Mr. McLaughlin is a pretty accurate gentleman on his figures. He may have a homely way of doing it but the results will come out all right.

Q. If the \$2,500 was paid out of the \$13,618.75, is there not an error of \$2,500 in the entry of those items?

A. You must answer that yourself. I can't answer.

Q. Are you not competent to answer?

A. I am competent to answer, but I don't choose to answer. I am not giving my opinion as to the accuracy of those figures; I am not here to give these figures as a mathematician. You make your statement and draw your own conclusion from it. I don't care to draw the conclusion. If I sit down to examine it I could tell you. I haven't got time, just now.

Q. On how many occasions were you present when large checks upon the Brooklyn Trust Company or the Fulton Bank, signed by Mr. Farley or Mr. McLaughlin, were turned in bank bills?

A. I think it was twice, with Farley, when he drew money.

Q. What is your recollection of the amounts drawn?

A. I think the amounts were pretty well up in the thousands.

Q. State, as nearly as you can, the date of the last transaction?

A. I couldn't fix any date except the date on which I received the salary. That is the only circumstance that fixes it on my memory.

Q. Was the other occurrence before or after that?

A. I think it was before that. I think it was the first money he drew out.

Q. According to the previous testimony, that was \$12,000 on November 13, 1885; does that correspond with your recollection?

A. Somewheres in that neighborhood.

Q. Did you on those occasions go to the Trust Company by arrangement?

A. No; except you call this an arrangement, that Farley came to my office and said he wanted to draw some money; I think the first time that he wanted to draw out some money he wanted me to go with him. I don't know that he was acquainted at the Trust Company at that time. Mr. Ropes, I guess, knew him; but I don't know that there was any other gentleman in that office that knew Mr. Farley; I didn't know that they did, at any rate. That is my recollection, that I went around to the Trust Company at his request, and that he drew out the money.

Q. What explanation did he give to you?

A. I can't remember that he gave any. He wanted to draw it out. I had spoken to him previous to this about keeping his balance down, and scattering his money around upon different savings banks—dividing it up; some time previous to that we had had conversations in talking matters over. There was no necessity for me to advise Mr. Farley to save his money, because that he will do, anyhow. He doesn't let go of his money very easy, I can tell you that.

Q. Have you any knowledge about efforts to take his money from him?

A. Oh, no; I would be sorry to see anybody try it; I would like to see somebody make an effort to take Farley's money from him.

Q. Are you willing to be examined upon the subject of the use made by Mr. Farley of this \$50,618.75?

A. Put your question, and I will answer it when you put it—anything you want to ask me.

Q. Have you any knowledge or information about what was done with those bank bills or with any part of the entire amount?

A. No; I haven't any definite idea about it.

Q. Give the information which you have, definite or indefinite.

A. Anything that I answer in relation to this I do it as a matter of courtesy altogether—what little I do know about it, and that is very little. I will recede a little from the stand that Farley took. I do know that he told me something about his father-in-law's property being mortgaged, and that he wanted to pay it off. He came to consult me about it. I think I told him to take an assignment of the mortgage. I can't remember the transaction, but I believe he told me afterwards that he did.

Q. Was the amount \$6,000?

A. I don't know where the money came from, nor the amount. I judge it was some of his own money he had taken out. I know only the fact. That is all I know about his money.

Q. Who drew the assignment?

A. I don't know. I don't know that there was an assignment. I didn't draw it; didn't have anything to do with the transaction.

Q. Is that all the information which you have about the disposition of that money?

A. That is all the information I have, or all the knowledge that I have of Farley's money that he took out after it passes out of the office. I don't touch his money nor look up his private affairs. I look after all these people he has got employed, and I see that he gets all that is coming to him out of that office, but when it goes into the bank in Farley's name then Farley is able to take care of it. I don't ask him anything about it after it gets into the bank.

Alexander R. Thompson, Jr., being duly sworn, testifies as follows :

BY MR. PARSONS : Q. Are you a lawyer ?

A. I am.

Q. Are you connected with the Title Guaranty Company ?

A. I am manager of the Brooklyn Office of the Title Guaranty and Trust Company.

Q. How long have you held the position ?

A. Nearly a year.

Q. Were you in that position when a controversy arose between Register Murtha and your Company about the records of the Office of Register ?

A. Yes ; that was very shortly after I took the position ; within a few weeks.

(At this point the last witness, Mr. Barrett, interrupted the examination of Mr. Thompson as follows :)

MR. BARRETT : Will you excuse me, Mr. Parsons, I want to make an inquiry of the Committee, or make a statement. There was some question or questions asked Farley, that he declined to answer on personal grounds, that involved the names of prominent gentlemen in this City. I can explain this, and I will do so if the Committee desire to hear it. Those gentlemen are Mr. Felix Campbell, Alderman McCarty and several others.

MR. PARSONS : I should hope that the Committee will not permit that to be done.

THE CHAIRMAN : No, that is not proper.

MR. BARRETT : Then you refuse to have that explained ?

THE CHAIRMAN : No, no. But Farley ought to be able to explain that as well as you. If Mr. Farley wishes to make any explanation he may do so.

MR. BARRETT : Well, he can.

THE CHAIRMAN : You would better leave that to him.

You advise him to make the explanation and he will, without doubt.

MR. BARRETT : I will. I wanted to explain that and have it go to the public.

THE CHAIRMAN : Mr Farley is the man to give that to the public.

(The examination of Mr. Thompson was thereupon resumed).

BY MR PARSONS : Q. Explain the controversy ?

A. The controversy was over the question of the number of men we should have in the Register's office making abstracts of the instruments there recorded. Out of the dispute grew a law suit, and the law suit was settled and we put in a large number of men.

Q. What was the objection which the Register made ?

A. Well, I don't know as I can swear to it, because it was never made in my presence. I understood it that the Register objected that it would incommode the public if we put in more men ; that it would crowd his office too much.

Q. What were your men engaged in doing ?

A. They were engaged in copying, or, as we call it, "abstracting" deeds ; that is, taking the material parts of the instruments, the names, dates of record, description, and such recitals and references as would be useful in our business.

Q. In other words were you obtaining information to facilitate the examination of titles of property in Kings County, and for that purpose were you consulting the official records of the Register's office ?

A. Yes, sir ; that is it.

Q. And was it to that that objection was made ?

A. Objection was made to having too many of our men there at one time ; that it crowded the office, as I understood it. Mr. Murtha could tell you about that.

Q. Did you have a needless number of men : I mean a number which was unnecessary for the work that was to be done ?

A. Well, perhaps I should explain, Mr. Parsons, that we proposed to make indices for our own use and upon our own plan which differs from that of the public, and that work involves the abstracting of every instrument of record in the County, and —

Q. All I wish to know is, whether you had a force larger than was required for the services that they were there for?

A. I could have put in a force of five hundred men if I had had room for them. It was not a question of time or anything of that sort. It was purely a question of as many men as I could get there.

Q. Was the object of thus abstracting, on which you men were engaged, to make the examination of titles independent of searches in Register's office?

A. Yes, sir.

Q. In other words, if this work were done would your Company certify titles from your own records instead of paying the Register for searches?

A. Yes, sir; we hope one of these days to be able to do that.

Q. Would this augment or diminish the expense of examining titles?

A. We hope that it will diminish it.

Q. Have you any personal knowledge about the arrangement that was in the end made between the Register and your Company.

A. Nothing further than I was informed by the Vice-President of the Company of the increased facilities which we should have; I know no other detail of it.

Q. When was the arrangement made?

A. It must have been in the month of April, in 1886, as near as I can recollect.

Q. After the arrangement was made did you send your men back?

A. Into the Register's office?

Q. Into the office?

A. Yes.

Q. Meantime, had some pecuniary arrangement been made between you and the Register?

A. I don't know of any.

Q. Who will know ?

A. Oh, I suppose the officers of the company would know.

Q. What is your company—a capital company ?

A. Yes, we are incorporated under a special act.

Q. With a capital of what amount ?

A. A capital of a million.

Q. Cash ?

A. \$800,000, paid in cash.

Q. Who makes the payments from your company ?

A. All that I get are made by a check signed by the Vice-President and Treasurer.

Q. Who is the Treasurer ?

A. Louis Windmuller.

Q. Where is his office ?

A. I think he is connected with the German-American Fire Insurance Company of New York ; he is the President of it.

Q. Who is the Vice-President of your company ?

A. C. H. Kelsey.

Q. Was there a difficulty with anybody other than the Register in reference to that work ?

A. None, that I know of.

Q. Did not the supervisors of this county make trouble ?

A. Yes ; they did make trouble ; tried to.

Q. What did they do ?

A. Well, a resolution, I believe, was introduced in the Board to inquire as to whether we had improper facilities in the way of county gas, and the matter was left to a Committee, and the Committee sent notice to us that they would be glad to hear what we had to say, and we went before the Committee and represented that we didn't believe that we were using the county gas ; and the matter went on for some time, and they sent word to us that we must pay for it, and it became a question as to what we should do. We maintained that we were under no obligation to pay, but we didn't want to have any more trouble than we could absolutely prevent, and my recollection of it is that the Committee said that the expense of gas would be about \$75 a week, and that we ought to pay something

over a half of that ; and I made a proposition on behalf of the company, that if they would put a gas metre on the pipe leading to the Register's office, the company would pay, I think it was, one-half of the gas used while our men were there ; and that was the last that I have heard from the supervisors on the matter.

Q. Do you know whether any pecuniary arrangement was made between your company and the Board of Supervisor or any officials other than the Register ?

A. I don't think so ; I am very certain there was none made though, or I should have known about it if there had been.

Adjourned to Friday, March 11, 1887, at 10 A.M.

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COMMON COUNCIL CHAMBER,
BROOKLYN, N. Y.,
March 11, 1887.

The Committee met pursuant to adjournment.

After calling the meeting to order, Chairman Bacon said :

Gentlemen: This having been proclaimed a public holiday by the Mayor of the City of Brooklyn, and out of respect to our lamented fellow-citizen (Mr. Beecher), who belongs to us and the world as well, we have thought it highly proper that this investigation should be adjourned until to-morrow morning, at ten o'clock. Those witnesses subpoenaed for to-day will appear at that time without further warning. We are now adjourned.

Adjourned to to-morrow, March 12, 1887, at 10 A. M.

COMMON COUNCIL CHAMBER,
BROOKLYN, N. Y.,
March 12, 1887.

The Committee met pursuant to adjournment, all the parties being present as stated heretofore.

Chairman Bacon called the meeting to order, and Mr. Kelsey was called to the stand.

Clarence H. Kelsey, being duly sworn and examined as a witness, testifies as follows :

By Mr. PARSONS: Q. Are you a lawyer?

A. I am.

Q. Are you connected with the Title Guaranty Company?

A. I am.

Q. In what capacity?

A. I am Vice-President of the company.

Q. How long have you held that position?

A. Something more than a year; I have been connected with the company for more than three years.

Q. What is the object of the company; what does it propose to accomplish?

A. The company proposes to accomplish two things; first, to make a locality index of the records affecting real estate in this county (Kings); and then by the aid of the index to examine and guarantee titles to real estate. So that there are two distinct branches to its business, namely, one to make an index, and the other the examination and the guaranty of titles.

Q. Does your company look to diminishing the expense in the examination of titles to real estate?

A. It undertakes to do that by the aid of both branches of its business. By the aid of the index it will be able to dispense almost entirely with the official searches and the charges for the same; and by the guaranteeing of the title it will save the re-examination of the title in successive operations.

Q. When did your company begin its practical operations?

A. I think it was in the summer of 1883.

Q. Where is your company established?

A. Its principal office is at 55 Liberty street, New York, and it has an office at 26 Court street, Brooklyn, where its Brooklyn business is transacted.

Q. What course is pursued by it in making the indexes to which you have referred?

A. The first process is the making of a digest of each deed and each mortgage by clerks who work in the Register's Office. These digests commence at the beginning at Liber 1, and take every instrument in every liber right straight through the office.

Q. Is this work necessarily done in the office of the Register?

A. It is absolutely necessary that it should be done there.

Q. When did you begin to do that work in New York?

A. Well, we commenced there in 1883 also, but it was a long time before we were able to accomplish very much.

Q. At that time was the office of Register of Deeds in New York a feed office?

A. It was.

Q. Has it since become a salaried office?

A. It has, with the commencement of the present year.

Q. Were obstacles put in the way of your company in the Register's Office in New York?

A. There was, first by Register Docharty, and afterwards by Register Reilly.

Q. How long did they succeed in fighting off your work there?

A. Until the commencement of the last year of Register Reilly's term.

Q. Who was Register of Kings when you began your work there?

A. Register Richards.

Q. Were difficulties put in the way of your company in Kings County?

A. There were.

Q. Of what character, and how?

A. We were told that only two men could work in the Register's office for this company, and that no matter how much work we had to do, that number was all that the office could accommodate; and on putting in a third man the book was taken from the man by Register Richards himself. We then applied for mandamus compelling him to exhibit the books to my employees. He contested that application, and the application was granted by Judge Cullen, at Special Term, without even holding the papers for consideration, and with the intimation that from fifteen to twenty to his knowledge could work there without interruption. The Register appealed from that decision to the General Term, and the General Term reversed the decision, on the ground of certain special facts in the case, and not on the ground of the merits, but intimated that the business of the office should have precedence over the business of this company. We appealed.

Q. By the business of the office do you mean the other business of the office than your own ?

A. The other business of the office.

Q. That is the business which embraced the making of searches for lawyers engaged in examination of titles ?

A. Yes, sir ; for immediate use. We appealed from that decision to the Court of Appeals, and the Court of Appeals wiped out that distinction between classes of business, and ruled that our business was just as important as anyone else's, and that all should be treated alike ; but on the special facts that I have already referred to, which were that an agreement had been made by our agent, that we would not ask for more than two men if we were allowed there, the judgment of the General Term, or the order of the General Term, was affirmed.

Q. Under what circumstances had that agreement been made ; was it a voluntary agreement on your part, or was it made under any pressure, and, if so, what sort of pressure ?

A. We always denied having made any agreement at all, but unfortunately Judge Cullen decided the case without taking the papers, and we scarcely knew that there was any such allegation in the Register's case ; and that allegation went up to the appellate court undenied. We always denied that there had been any such agreement, and the agent certainly had no authority to make it.

Q. When did the decision of the Court of Appeals come ?

A. That came in April of 1885, April or May of 1885.

Q. What next was done by your company in the effort to carry on its work in the office of the Register of Kings ?

A. Well, during all this time Register Richards had refused to allow but a very limited number of men to work there. After Judge Cullen's decision, he had permitted seven men to work there instead of two, and during all that litigation that number of men remained the same ; it was a compromise number practically.

Q. And did that continue to be the situation up to the decision of the Court of Appeals ?

A. It did.

Q. What then took place ?

A. Meantime we had brought an action in New York County to get over obstacles there, and that action was proceeding in New York County and was decided by the Special Term just about the time of this Court of Appeals decision, and the decision was against the company; but an appeal was taken to the General Term, and that appeal was heard in October and decided in January of 1886, giving us all the rights for which we had contended. No change was made in the Kings County office until after that decision of the General Term of the Supreme Court of the first department.

Q. In the course of this litigation were statements made by the Register of New York of the amount of fees received by his office?

A. No statements were made in affidavit to my knowledge.

Q. Was there any disclosure upon that subject of any kind?

A. There was reference in some of the papers—some of the moving affidavits on our part to a sworn report of Register Reilly's filed with the Secretary of State and containing a statement of the fees received by that office.

Q. Do you remember the amount?

A. The net fees as shown by that report were some \$63,000.

Q. Do you remember what the gross fees were?

A. About one hundred and sixty thousand and some hundreds of dollars.

Q. Subsequent to the first of January did your company continue its efforts to do its work in the office of the Register of Kings under the administration of that office by Register Murtha?

A. It did.

Q. Did you find that the way had been made smooth; and if not, what did you discover?

A. We found that we were allowed the seven men, and no more, which he found there on coming into the office that Register Richards had vacated.

Q. Did you make any effort to increase your work?

A. I did; I saw Register Murtha once or twice; I called

his attention to this decision of the General Term of the Supreme Court.

Q. Do you mean the decision of the General Term in New York?

A. In New York. I told him that we should insist on having all the facilities that that decision could entitle us to.

Q. What then happened?

A. I finally wrote him a formal letter calling his attention to that decision, telling him that we should put more men there, that it was absolutely necessary for us that our work should go on faster than it was going on, that we should put them in, I think, on the following Monday morning, and requested him to give them all the facilities that he could.

Q. Mr. Kelsey, in any of your negotiations or efforts in Brooklyn, did you ask facilities outside of an examination of the public official records, by your employees, for the purpose of aiding the investigations of title?

A. I did not.

Q. What happened after this formal notification which you addressed to Register Murtha?

A. The men were sent there on that Monday morning—one or two additional men; I don't remember the number—and they were forbidden by Register Murtha to take the books, and were forbidden any facilities in the office; and I was obliged to withdraw them, and I think commenced a suit for damages for obstructing us in the exercise of our chartered rights.

Q. Did the effort that was thus made by you keep within what the General Term of the Supreme Court of New York had determined to be the law?

MR. GREENE: Mr. Parsons, do you think that is proper to keep asking him to interpret the decisions of the court?

MR. PARSONS: All that I desire, Judge Greene, is to get information.

MR. GREENE: Ask him what the decision is.

MR. PARSONS: The only objection to that is that it makes

the matter unnecessarily laborious. Of course we shall yield to the slightest objection on your part.

MR. GREENE: This wouldn't be evidence in any court.

MR. PARSONS: Certainly not; certainly not?

MR. COLE: There can be no objection to his answering the question.

MR. ARNOLD: I think the manner in which you are proceeding, Mr. Parsons, is calculated to lay the whole matter before the Committee in the briefest manner. I think that is the best way.

MR. PARSONS: I will withdraw the last question for the present and ask this as preliminary to it:

Q. Do you remember whether the decision of the Court of Appeals in the Kings County case and the decision of the General Term of New York in the New York case are reported?

A. The decisions are both reported; the Court of Appeals decision is one of the later volumes, but my recollection is that the opinion is not printed. In the General Term case, which is reported in one of the latter volumes of Hun, the opinion I believe is quoted in full.

Q. State the title of the case.

A. The Court of Appeals case is *The People ex rel. the German-American Loan & Trust Company* (which is our old name) against Samuel Richards, as Register; and the New York case is *The People ex rel. The Title Guaranty & Trust Company* against John Reilly, as Register.

Q. I understand that the gist of the decision in New York and of the decision of the Court of Appeals in the Brooklyn case was that there was no right to discriminate between classes of citizens using the facilities of the Register's office?

A. That was it. The only ground taken by the Register was that there was still left in him a limited discretion to say when the office was crowded, and when it was not; and that was where the trouble came.

Q. And that arose from the defence or opposition made by Register Richards to your proceeding here?

A. Yes.

Q. What took place after the refusal by Register Murtha to permit you to increase your force in Brooklyn?

A. Why, the men were put in by us, and we were denied the right to use the books, and the suit was brought—the suit for damages for obstructing our work; our contention being that we had a valuable franchise that the Register had no right to obstruct us in using.

Q. What happened then?

A. After some time the counsel of the Register came to see me about the litigation. I should say that in the letter that I wrote to Register Murtha before putting the men in I also stated that while we could not demand it, yet our work was of so great importance and it would take us so long under the best of circumstances if we worked only during the office hours, that we desired him to concede us the privilege of working after hours in the same way, that his own searchers and also private searchers did, and that for that facility we would pay him a reasonable compensation, just as we paid him a reasonable compensation for expediting current searchers for us from day to day; that our object was to get into a position to dispense with searching altogether, and that if we could do that quickly we would be willing to practically lump the consideration that we should have to pay him for a series of years and would pay him a reasonable sum for this facility.

Q. During this period, were you paid for what is called expediting searches?

A. We were.

Q. What is the meaning of that expression?

A. Well, in New York County—

Q. Stick to Kings, please?

A. It is simply this: That to get a search in a reasonable time you are expected to pay extra beyond the legal fees. If you don't do that there is no knowing when you will get the search.

Q. Was this letter before or after the commencement of your suit?

A. It was before.

Q. When was it that you were called upon by the counsel of Register Murtha?

A. After the summons and complaint had been served.

Q. Fix the date as nearly as you can?

A. It was some time in April.

Q. In April of 1886?

A. Of 1886.

Q. What then occurred?

A. The counsel then suggested that Register Murtha was not fond of law suits, and did not wish to get into a long litigation with us, as the New York Register did, and reference was made to the suggestion in my letter that we would pay for extra facilities, and the outcome of it was that it was agreed between us that the litigation should be ended; that we should have reasonable facilities in daytime, and that we should have extra facilities, for which we should pay him a reasonable sum, and that we should also pay to the Register the cost of keeping his own custodian in the office whenever we were there.

Q. Was that agreement in writing?

A. I had nothing in writing at all.

Q. Who was the gentleman of whom you speak as the counsel of Senator Murtha?

A. Myers R. Jones.

Q. Did the suit become discontinued?

A. The suit was discontinued. I delivered a consent. I don't know whether it was discontinued or not. We exchanged consent to discontinue.

Q. Were amounts agreed upon between the counsel of Register Murtha and yourself, to be paid by your company?

A. There were.

Q. What were those amounts?

A. We agreed for special facilities extending over a period of fifty weeks, half of them being in the summer of 1886 and half of them in the summer of 1887, and we agreed to pay for that besides the \$15 a week to the custodian, or to Register Murtha for the custodian, \$175 a week to Mr. Jones.

Q. What was the payment of \$15 a week to the custodian assumed to represent?

A. The extra expense that Register Murtha would actually be put to in case our men stayed there after four o'clock, when his regular custodian went there, as I supposed.

Q. Do you know whether the office was in use by Register Murtha or his subordinates after four o'clock of the afternoon?

A. It always had been, and was during all the time that we worked there. It has been the practice of registers for years, as we understood it, to have a great deal of their copying and much of their searching done at night.

Q. So that this outside time that you speak of as a facility to you was time during which the office was open irrespective of whether your employees were there or not?

A. Yes; but I understood that it was open at the option of the Register; that the Register could shut it at four o'clock, and open it to whom he pleased after that time, and that was why we were obliged to compensate; but his own clerks stayed there long after our men left, constantly.

Q. Did you make any objection to have the time extended during the summer, only so as to occupy parts of two years instead of a continuous year in the prosecution of your work?

A. I tried to get Mr. Jones to consent that the work should go on for fifty weeks consecutively; but he was unwilling to consent to that and we split it into two summers.

Q. What effect did that have in retarding the completion of your work?

A. Of course we would not get on as fast in the intermediate time until the next May, and it would materially retard it during that time.

Q. And was there subsequently made some modification of this arrangement?

A. There was, after the first summer's work was over; I saw Mr. Jones, and requested him to secure for us permission to continue the work with half the force right

straight through, from that November, until the next May, because it would materially inconvenience us to discharge the men, and have to employ new ones, and break them in the next summer; and finally Mr. Jones consented to that, and we were then to pay him from November, until the next November, half the sum which we had paid a week before.

Q. Does that mean half of \$175 a week?

A. Well, in connection with that, we agreed to raise the amount that we would pay \$10 per week.

Q. Under this new arrangement what is or has been the gross payment made by your company; the gross payment by the week?

A. We paid from the second or third week of May, to about the 1st of November, twenty-seven weeks, \$175 per week; and then from that time, until the end of the year, we paid \$80 per week, keeping up all this time the payment of \$15 per week to the custodian.

Q. In addition to the amounts which you have stated?

A. In addition to those amounts.

Q. At what rate are the payments being now made?

A. At the same rate.

Q. That is, \$80 a week under an arrangement that you continued to work right straight along?

A. Yes; I ought to vary that a little; the night work has now ceased, and we have added \$15 per week to the amount paid to Myers R. Jones. The arrangement was from the beginning that we should pay \$190 a week for fifty weeks, and my first suggestion was to pay that to Register Murtha, in checks, every week, and it was at his request that the matter was split, and we paid the \$15 a week directly to Mr. Murtha, for the custodian, and the balance to his counsel. We had no issues about that; we were willing to pay it to whom Register Murtha or his counsel directed; the amount was agreed upon, which was \$190 per week for fifty weeks.

Q. Have all your payments been made in checks?

A. Every one of them.

Q. To whose order have the checks gone?

A. To the order of Myers R. Jones.

Q. Is that true of checks for the payments of \$15 a week?

A. No; those were made directly to Register Murtha, as our checks for searches are made all the time.

Q. State the date when you discontinued the use of the office after official hours?

A. I could not do that exactly.

Q. About when?

A. Some time after the 1st of January.

Q. Of this year?

A. Of this year.

Q. But the custodian payments, as I understand it, go on just the same?

A. No.

Q. What is the fact about that?

A. We have ceased paying anything for the custodian, because we don't require one.

Q. I understood you to say that you added the \$15 a week to the \$175?

A. The amount is the same, and the \$15 is added to the check to Myers R. Jones; it was simply this: we could not tell how much work accurately was to be done in that office; we made the best estimate that we could and supposed that it would take fifty weeks in which to finish it, and we were willing to pay so much money for expediting work to that extent, and whether we got through sooner or later we would pay for the extra facility so much money.

Q. Is there any consideration for these payments except the privilege to have your men do their work in the office?

A. After hours; the after hours is the consideration; we could be turned out, and would be turned out at 4 o'clock in the afternoon; we are allowed to work only a limited number in the office, that is, we could work only a limited number in the office, and we always knew that; but it would have taken years if we had attempted to finish the work with that force; and to finish it in a short time with men working at night, we were willing, and it was wise for us, to pay for the privilege, because it was at his option to give it to us or not.

Q. Mr. Kelsey, was the performance of your work, so far

as it was done in after hours, attended with the necessity of using gas?

A. Well, the office was always lit, but it was lit whether we were there or not, and always had been.

Q. Was there any increased use of gas through the fact that your employees were there?

A. Well, we contended that there was not; I am not informed as to that, whether all the burners were lit, whether our men were there or not.

Q. Did anything take place about the use of gas in the office while your men were working there after hours?

A. After the work had progressed a little while, we learned through the newspapers that a resolution had been passed by the Board of Supervisors referring it to a committee to see whether any private corporations or individuals were using the county's gas. We paid no attention to that resolution, and we heard nothing about it from the committee. Some time after that, we saw that another committee had been appointed to look into the same question, and we were notified that we might appear before the committee. Mr. Thompson and I did so one evening.

Q. By Mr. Thompson do you mean your assistant in Brooklyn?

A. Yes, sir; the Brooklyn manager. We stated our position in the matter, which was, that that we were working there at night as much to get out of the way of the public in the office during the daytime as for anything else, and that it was a press of work as proper for the Register to expedite as to expedite the current searches, and that if the office was open and the gas burned for the searchers to continue their work, it was perfectly proper for it to be done and the gas to be burned for us to continue our work, and there we stopped. Register Murtha was also present at that meeting, and he made a statement of his position, and he explained to them that the office was open whether we were there or not, and it was informally stated at the meeting that the explanation was satisfactory and we withdrew.

Q. Is that the last that you heard of the matter?

A. No; that is not the last. A little time after that word came to us that one or two of the committee thought there were burners lit when our men were there which

would not otherwise be lit and that we ought to pay for them. Finally at my suggestion Mr. Thompson wrote a letter, stating that if they thought that, if they would put a meter on the pipe leading to the Register's office the burners might be counted, and we would pay our proportionate share and no more; and that is the last that we heard of it.

Q. How long ago did that happen?

A. That must have begun in August or September, 1886.

Q. How are the payments to Register Murtha made at the present time, week by week?

A. The payments are made in a check to Mr Jones' order every week.

BY MR. GREENE: Q. This is a private corporation, the Title and Guaranty Company, is it not?

A. Yes, sir, under a special charter.

Q. Of the Legislature of this State?

A. Of the Legislature; yes, sir.

Q. Your purpose is that when you are equipped with the brief of what you desire from the office you use your own papers instead of using the clerk's office?

A. So far as searches are concerned; yes, sir.

A. And you expect to make a charge to those who want titles guaranteed?

A. We do.

Q. Then the result would be that a portion of the business that goes now to the Register's office would naturally come to you?

A. That is the case exactly.

Q. This is not then a charitable corporation?

A. Not entirely; no, sir.

Q. Can you state who are the directors of this corporation?

A. Yes, sir; I can send you a printed list.

Q. Can't you recall them now?

A. Yes, sir; Isaac H. Cox, Julien T. Davies, Samuel T. Freeman, Benjamin D. Hicks, John D. Hicks, Charles R. Henderson, Nathaniel E. Janney, Martin Joost, Wm. M. Ingraham, Clarence H. Kelsey, Charles Matlock, John W. Murray, Emil Elberman, Charles Hill, Orlando B. Potter, Charles Richardson, Craig D. Ritchie, Wm. Trautwine,

H. Wesendonck, Louis Windmuller, Ellis D. Williams, Wm. H. Male and three others.

BY MR. PARSONS: Q. Are any of the gentlemen whom you have named as directors residents of Brooklyn?

A. Three of them are.

Q. Who are they?

A. Martin Joost, William M. Ingraham, and William H. Male; these three are Brooklyn residents; and Mr. Cox, Benjamin D. Hicks and John D. Hicks are Queens County residents.

Q. What is the occupation of Mr. Ingraham?

A. He is a lawyer.

Q. A lawyer of prominence here?

A. Yes, sir, one of the oldest, and I suppose best known lawyers of Brooklyn, who is engaged particularly in the real estate branch of the law.

Q. How long have you had familiarity with the examination of titles and with the facilities to that end which are furnished by the office of Register of Deeds?

A. Nearly seven years.

Q. Have you had occasion to inform yourself what are the legal fees fixed by statute to be received by the Register?

A. I have looked it up two or three times, but it is a shifting scale and I cannot cite it.

Q. Have you ever found any provision of law or any statute which justified the payment which you now make to the Register?

A. There are plenty of decisions of the Courts, and we looked that up very carefully before we offered to make any compensation for special facilities at all, and we were advised, and understood the law to be, that where an officer like the Register or County Clerk or a Sheriff was not compelled to render a service for nothing and was not forbidden to take fees excepting such as were named in the statute—when he was not expressly forbidden to do that—that any special service that he might render was a matter of option and agreement between the two parties. It is the same with regard to Sheriff; a special service he can render or not, as he pleases: if he does please to render it you must agree with him upon the compensation.

Q. Even although the service is of a public character?

A. Yes, so we understand it to be. That is the only way you can justify this payment of extra for expediting a search. I looked up the statute very carefully and found that for certain services certain fees were prescribed, evidently with the intent to protect the public who could demand such services for such compensation ; that there was no prohibition for further fees in the statute, and the decisions all were that in such cases it is at the option of the official to render the services, and if he rendered them it was a matter of agreement what you should pay him.

Q. In doing this work do you use any records except public records of the office?

A. We do not.

Q. And do you use any room except the public rooms which belong to the office and are the property of the County of Kings?

A. We do not.

Q. Did you receive any service of any kind from the Register or his subordinates in the prosecution of this work?

A. No actual services whatever. We were at his mercy —

Q. I will not trouble you to state that ; all that I wish to know is whether for these payments you received any services whatever from the Register or his subordinates ; I mean personal services, and I am not speaking of the use of these public rooms?

A. Excepting the services of the custodian when we were at work at night, who was there to get our books.

William H. Reay, being duly sworn and examined as a witness, testifies as follows :

THE WITNESS: Mr. Chairman, I would like to say something before you commence to examine me. It has been charged in one of the papers of Kings County, in Brooklyn, that the department with which I am connected was a very corrupt department, and that I, myself, am a very corrupt man. It is also asserted in that paper that I,

being a Republican, and a majority of your Committee being Republican, that you will proceed to whitewash me in most approved style. I want to say that I come here without any fear of investigation, and will give you all the facilities that lay in my power to forward your work.

By MR. PARSONS: Q. Do you hold any official position in Brooklyn?

A. In the County of Kings; not in Brooklyn.

Q. What is your official position?

A. Commissioner of Charities and Corrections.

Q. What position in that Commission do you occupy?

A. I am president of the board.

Q. How long have you been connected with the board?

A. Since the 1st of January, 1886.

Q. Was that the beginning of your connection with the department?

A. With that department; yes, sir.

Q. Have you held other positions in the City or County government?

A. Yes, sir.

Q. What?

A. Supervisor, two years; alderman, seven years; member of the Board of Health, two terms—two years; president of this Common Council, two years.

Q. State, please, the composition of the Charity Board?

A. In what manner—political?

Q. No; its number and the designation of officers?

A. It consists of three members; Commissioner Hynes, Commissioner Gott and myself. I am president of the board and Mr. Hynes is treasurer.

Q. Are these positions elective positions?

A. No, sir; we elect them among ourselves in our own board.

Q. Are the Commissioners elected?

A. They are appointed by the Supervisor at Large, under the present law.

Q. Has the board, as now constituted, been in existence since January 1, 1886?

A. No, sir.

Q. What changes have taken place since then?

A. One member retired on the 1st of January of 1875, and Commissioner Gott took his place.

Q. Describe briefly what department of county affairs or county work comes within the jurisdiction of this commission?

A. We have the care of the paupers of Kings County among which are the inmates of the almshouse and lunatic asylum, hospital and nursery; besides the care of criminals in the county in the Penitentiary; the poor house, a small pox hospital, and the morgue; and enumerated I suppose among the paupers of the county are county wards; that is, the poor children who have no one to support them except the county. Some are orphans, some are half orphans, and some worse than orphans, and others with parents too poor to support them. We have twelve hundred of those.

Q. Are the various beneficiaries who receive aid from your commission boarded or assisted in public institutions?

A. Our people are all kept in public institutions except the county wards.

Q. Name the institutions and state their situation?

A. What do you mean by the situation?

Q. I mean the street or some description of the locality.

A. At Flatbush we have the lunatic asylum, the hospital, alms house, and nursery, and the small-pox hospital; in the City of Brooklyn, on the line, we have the penitentiary and also the morgue, almost in the heart of the city. As to county wards, under the law, we board in institutions or take like faith with the charge, in eleven institutions distributed around Brooklyn.

Q. To whom does the property of these various institutions belong? To the County of Kings?

A. All belong there, except the institutions in which county boards are lodged and boarded.

Q. When last was either of the institutions either constructed or improved by the erection or building of new buildings?

A. I think the alms house about 1875; and the last addition to the lunatic asylum, I can't tell when that was made.

Q. Recently ?

A. No, sir, not in years. I have known the institution intimately for thirteen or fourteen years; not since that time. I made a mistake there—while there has been no addition to the building, there has been two wooden pavilions built within the last eight years for the accommodation of the lunatics, to relieve the overcrowded condition of the asylum.

Q. Involving the outlay of how much money ?

A. About \$15,000.

Q. When was that expenditure made ?

A. I think about eight years ago, although on that I am not positive.

Q. Did you at that time have any connection with the department ?

A. No, sir.

Q. Is there not one institution in charge of your commission which you have omitted to mention, known by the name of St. Johnsland ?

A. Yes, sir.

Q. Describe that institution ?

A. Well, it is not an institution yet; it is an annex; we expect to have some buildings finished there and more there; it is in an incomplete state.

St. Johnsland was purchased about two years ago by the County of Kings, and it is proposed ultimately to remove all the insane and all the paupers there. There is no building erected yet that has ever been turned over to us for the accommodation of all of our people ; but the condition was such before I went into the Board at all that about sixty patients had been taken to St. Johnsland and lodged as best they could be, in such houses as were found on the estate as it now stands.

Q. From whom was the purchase of the property made ?

A. You are going beyond my time. The County Farm was purchased before I came into the board. There was eleven pieces of ground, and who the owners were I couldn't tell.

Q. Is the name you have just mentioned of County Farm, the name by which it goes ?

A. Yes, sir ; the County Farm.

Q. Where exactly is it situated ?

A. At St. Johnsland ; forty-four miles from New York on the Long Island Railroad, on the North Shore road.

Q. What is the extent of the property as it now stands ?

A. Between nine and ten hundred acres.

Q. What buildings are erected upon it ; state in a general way ?

A. There is only one building that we found on it (and that building was called the Becarre Mansion) that was suitable to accommodate any of the people from Kings County. But the commissioners who preceded me had utilized a couple of barns ; they had been ceiled and floored and put in good condition for the reception of some male patients. All the females down there are kept in the Becarre Mansion. The males are kept in those barns that I have described. They have been made good and tenantable.

Q. Do not the books or papers in your office show the cost of this property ?

A. Yes, sir.

Q. Do you know what the aggregate cost was ?

A. I have heard it stated time and time again to be \$89,000, but I never saw any official statement.

Q. Does that mean \$89,000 for the entire nine or ten hundred acres ?

A. Yes, sir ; that is the purchase money.

Q. What other outlays of money in connection with that property have been made, so far as appears by the books or papers in your office ?

A. Well, there has been considerable improvement in the way of putting the buildings in decent repair, making some roadways, repairing the dock, and putting it in good condition, etc. ; been made directly from the account called the St. Johnsland Account, besides money expended in the support of the people down there, and paying for the nurses. We have a physician who is always stationed there.

Q. Do not the books and papers and accounts of the

office discriminate between outlays of a permanent character and those of a current character ?

A. Well, I probably better explain the law in regard to that——

Q. No ; I would rather you would answer my question ?

A. Well, I can say yes and no.

Q. If that is an accurate answer I will accept it. But what I wish to ascertain is whether as a matter of practice the books and accounts of your office are kept in such a way that they discriminate between outlays which are of a permanent and those which are of a current or temporary character ?

A. Well, the law is this : that all additions, erections and alterations to all buildings in our department are made by the Supervisors and not by us. Now, for instance, under a permanent addition would be, if we laid a floor, and we would pay for that floor, so that you see it would be both no and yes. That would be a permanent addition, laying a floor, and we would pay that out of our account rather than go to the Board of Supervisors.

Q. How are the payments made from the Board of Supervisors actually disbursed ? Are they disbursed through your department ?

A. No, sir.

Q. How are they disbursed ?

A. For all our goods, all our expenses ?

Q. I mean any expenses which are borne by the Board of Supervisors as contradistinguished from the expenses paid by your Commission ?

A. We do not pay anything ; the Board of Supervisors pay everything.

Q. Do you mean that no money passes through your department ?

A. No, sir. I will say, excepting board for patients and money taken in abandonment cases and bastardy cases, which we pay out according to law, as directed. And I can show you the aggregate of all the money we take in, and all the money we expend.

Q. Are there kept in the office of your commission, books

which will show the total expense to the County of Kings of running that department?

A. Yes, sir. I said some time ago that we did not expend any money. We do for salaries. All our salary list we get from the county treasury; that is all the money we get from the county treasury direct. Do you want to know how much money we raise, etc.?

Q. I shall presently. I first wish to ascertain whether the accounts or books in your office are so kept as that expenses of a permanent character can be separated from those of a current or temporary character?

A. Yes; whether we expend them or not—that is kept.

Q. Do you mean to be understood, then, that the expenses connected with the St. Johnsland purchase are the only expenses of a permanent character concerning property which have been made within the last two or three years?

A. Yes, sir.

Q. What aggregate amount at the present time stands upon the books or accounts of your office as the cost of St. Johnsland?

A. That I couldn't tell you.

Q. Is it not considerably more than the \$89,000 which was mentioned by you?

A. Oh, yes, sir. About \$6,000 was expended by engineers and architects in laying out the plans.

Q. Under whose direction?

A. That was done under the Board of Charity Commissioners.

Q. Does that mean your own board?

A. Yes, sir.

Q. Who had charge of the work?

A. An engineer by the name of McElroy.

Q. Enumerate any other expenses of this character which stand charged against the St. Johnsland property?

A. I could not.

Q. Was there not a very considerable payment entered upon your books as made for the examination of the title?

A. That was done through the Board of Supervisors ; that never came to our department at all.

Q. Does not the item appear on your books ?

A. No, sir ; that purchase-money never came to our department.

Q. Do you know how much has been charged to that property as the expense of examining the title ?

A. Nothing but what I have heard and saw in the papers.

Q. In what paper ?

A. In some of the Brooklyn papers. \$6,000 was the first bill, I think. Whether it was paid or not, I don't know ; I can't testify to that, because I am not positive.

Q. Is there any information upon that subject in your office ?

A. No, sir.

Q. If there are other expenditures applicable to St. John's-land and made for outlays of a permanent character, I wish you would state them, so far as you are able to do it ?

A. I can not state accurately. As I say, we have done a good deal of repairing there, and have been laying some water pipes for the accommodation of the people down there, and constructing a sewer, and rebuilding the dock, etc. : but I couldn't tell you the aggregate.

Q. Is all of this work done under the direction of the department that you have now referred to ?

A. Yes, sir, it is temporary work.

Q. Is it done by contract ?

A. No, sir, that is done by our own help.

Q. Do you mean by salaried help ?

A. Yes, sir, our own mechanics, with the assistance of the lunatics.

Q. Which of the inmates of these institutions remains continuously in the charge of the department ?

A. Which of the inmates ?

Q. Yes. I assume the inmates of the penitentiary are shifting from time to time, and that such may not be the case with other institutions in charge of the department.

A. The lunatics. They are the only continuous ones we have.

Q. What means are there for ascertaining the cost to the County of Kings by the year of maintaining a lunatic ?

A. I will give you the per capita cost of all our people together.

Q. That is just what I do not wish. What I want to find out is the cost by the year of maintaining an inmate of one of these institutions who is there continuously ?

A. I don't know whether the per capita is contained in this report here or not. I have got the per capita of all our people. (Witness refers to report.) Our per capita is made up of the inmates of the institutions based on the whole, except the penitentiary, and the penitentiary I say is kept separate. The other institutions are all bunched because they are all paupers with us.

Q. Yes. But if the object be to ascertain how much by the year it costs the County of Kings to maintain one of its dependents, must not an account, made up in this way, be very misleading ?

A. No, sir ; our secretary can give you that exactly. I see he has not made it up in his report. We got a report from each superintendent of the different institutions, and the secretary makes up a report.

Q. Does that include the whole amount for a lunatic, direct ?

A. Yes, sir.

Q. Should not that report show how much it costs the County of Kings to maintain a lunatic for a year ?

A. Yes, sir ; and I think it does. It does not show in here ; I cannot find it in here.

Q. Do you mean you have not——

A. I know pretty near, but I can't tell——

Q. Wait a moment, Mr. Reay, till I finish my question. Do you mean you have no means of supplying that information ?

A. Yes, sir.

Q. Who from your department is there in attendance upon the Committee now ?

A. I hardly think anyone.

Q. Is the Secretary here ?

A. I hardly think so.

Q. Are there any books from your department here ?

A. No, sir ; I don't think so. I brought them here and kept them here for two days.

Q. Inform the Committee of whom consists the staff of the department, and if either of the persons named occupy a salaried position, give its name and the amount of annual salary received by him ?

Commissioner Thomas W. Hynes, Frank B. Gott and William H. Reay, receive \$3,000 per year each ; D. C. Toal, \$2,000 ; John H. Kemble, counsel, \$1,800 ; Joseph Short, Jr., in charge of the Relief Department or Relief Bureau, \$2,000 ; A. M. Burns, Physician for the Department, \$1,600 ; Gilbert Hicks, storekeeper, \$2,000, I think, I am not positive ; William Murray, Superintendent of the Almshouse, I think his salary is \$1,800 ; John A. Arnold, Medical Superintendent of all our Institutions, \$3,000 ; G. K. Morton, Superintendent of the Hospital, \$1,200 ; G. N. Ferris, Superintendent of the Asylum of Incurables, \$1,800 ; D. A. Harrison, Superintendent at St. Johnsland, \$1,500 ; George T. Brown, in charge of the bureau of county wards, \$1,200.

Q. How are the current expenses of the Department fixed for amount, what regulates the amount of the current expenses of your department ?

A. The salaries.

Q. I mean outside of salaries ?

A. The supply account ?

Q. I mean to embrace the entire annual expenditure which the County of Kings makes by reason of your Department ?

A. Well, we go before the Board of Estimate, and after making up the amount we think is necessary to run it, we ask them for a certain amount, which we get, and we predicate it on the amount of natural increase, &c.

Q. How do you estimate the amount you assume will be needed ?

A. By the cost of the preceding year and the natural increase.

Q. Is that made up on the basis of the number of dependents of the Department ?

A. Yes, sir; that is what I mean by the natural increase in the Department.

Q. How much did it cost the County of Kings to run your Department during the year 1886?

A. \$325,000.

Q. Does that embrace everything?

A. That embraces what it costs the County of Kings; it don't embrace our expenses by any means.

Q. How much is to be added for what you call your expenses?

A. The total cost of the Department for the year was \$465,753.98.

Q. Of which there came from the County of Kings how much?

A. \$325,678.78.

Q. And the residue came from where?

A. Earnings.

Q. Earned by whom?

A. The penitentiary, by convict labor; board of lunatics, board of state prison convicts, board of Richmond County convicts, and Queens County convicts, and the sale of old material.

Q. Who is the actual disbursing officer of this money?

A. The Board.

Q. Does it have a treasurer?

A. Yes, sir; but the treasurer does not pay out any money except the amount we receive in the office incidentally for the board of our wards. Everything that is expended or asked for, or everything we expend, we expend on requisition, excepting for salaries. The treasurer pays those salaries except the Commissioners' salaries.

Q. Where does he get the money from for salaries?

A. Draws it from the County Treasury.

Q. To whom is paid the money you describe as the difference between the total expenditure of the Department and the amount received from the County of Kings?

A. That is always paid in by check from the labor in the penitentiary, paid in by check to the County Treasurer.

Q. Who made the payment to the County Treasurer?

A. The Bay State Shoe and Leather Company. It does not come through the department I know.

Q. Can you separate the money that goes through your department from the aggregate which you have stated as the expense of your department?

A. I think I can, yes, sir.

Q. I wish to find out what money and from what sources comes the money which is actually handled by your department?

A. It is the only paper we made up, thinking you might want that. (The witness produces statement.) The receipts for 1886 coming directly through our department were \$56,430.86, although our average receipts are only a little over \$2,000 a month; but when we went in office the first of January last year we found that the State owed the County a great deal of money that had been lapping over for years; we made a considerable exertion and we collected from the State \$21,663.65 that had been owing us for some years for board of tramps. They owe us some yet. All the other moneys received by us was received in these bastardy cases and abandonment cases.

Q. What officer of your department actually receives the money?

A. The Relief Clerk.

Q. Does he receive all the money which comes to your department outside of this payment from the State?

A. Well, the majority of it he receives, although we have sent out a circular asking them to make all the checks payable to the treasurer Mr. Thomas W. Hines; but as the Relief Clerk keeps the books and accounts in all the bastardy and abandonment cases he sends out the notices for their payment, and they come through him, and he checks them off and turns them over every day or every two days to the treasurer. No one else in the office receives any money.

Q. What is the name of the Relief Clerk?

A. Joseph Short, Jr.

Q. Who is your treasurer?

A. Thomas W. Hynes, Commissioner.

Q. Where is your office?

A. 444 Fulton street.

Q. Can you produce to be brought here now the kept by the Relief Clerk, which shows the receipts to him, and also any book which shows money going to the hands of Mr. Hynes, your treasurer?

A. Yes, sir; I see our secretary, Mr. Toal, here, send him for them.

Q. Is there a committee of the county authorities your department?

A. Do you mean to pass our bills?

Q. To do any official work in connection with the Department of Charities?

A. No, sir; I don't believe there is.

Q. Is there not a committee of the Board of Supervisors?

A. No, sir. Our bills go there to be audited, but I think under the law even they have a right to go there.

Q. That is not the question. The question is whether there is practically some committee of the Board of Supervisors which is in direct relation to your Department?

A. No, sir. There is what they call the County Committee which has charge of the buildings.

Q. You means the St. John'sland buildings?

A. I mean all the County Farm buildings.

Q. Of whom does that committee consist?

A. That committee consists of seven members. I remember the names.

Q. Who is the chairman of the committee?

A. I think it is Supervisor Nolan, if I am not mistaken. No, it is Mr. Ferguson.

Q. Is any part of the expenditure of your Department which during 1886 amounted to \$465,753.98, regulated by contract on public bids?

A. We buy everything on contract, with the exception of the \$6,000 allowed for a year for contingencies.

Q. Are these contracts very numerous?

A. Yes, sir.

Q. Which are the principal ones—I mean those involving the largest money amounts?

A. Beef, flour and coal.

Q. Are you able to state what was the total amount for 1886 embraced by those three items?

A. I couldn't, no, sir.

(Witness refers to report.) I think I can, sir. For beef we expended \$45,657.16.

Q. In 1886?

A. Yes, sir.

Q. Who was the contractor?

A. A man by the name of Evans, in New York.

Q. Can you state his full name?

A. A. No, sir.

Q. Where is his place of business?

A. I have heard it was down at the lower part of Broadway.

Q. Give the corresponding information in respect to the expenditure of coal for 1886?

A. For coal, \$27,369.71, and blacksmith coal, \$41.

Q. The same information for flour during 1886?

A. Flour, spring, \$11,881.21; flour, winter, \$11,583.64; flour, spring, for penitentiary, \$4,942; flour, winter, for penitentiary, \$4,942; flour, extra family, 355 barrels, \$1,641.51.

Q. Who was the contractor during 1885 for coal?

A. A man named Townsend.

Q. Do you know his full name?

A. No, sir.

Q. Where is his office?

A. I think he carried it in his hat.

Q. What do you know about him?

A. I don't know anything about him, except I found him a contractor when I went into the Department. He was the contractor before I went in.

Q. Has he continued to be a contractor during your time?

A. Yes, sir; his contract run out on the first of August, 1886; he was the lowest bidder for coal for the next year, and unfortunately we gave him the contract.

Q. What has the Department to do with making contracts?

A. Everything.

Q. Before I go into the particulars of the contract system, mention the name of the flour contractor during 1886?

A. I think we had two. Thurber, I believe, was one. I can't recollect the other.

Q. State what was the system pursued in making contracts for supplies to your Department?

A. The system is this, that for some articles we make it by the year, or it has been the custom; and for other articles, each six months. The custom has been to send to each institution, to the superintendent of each institution, asking them about what amount they will require, based on their consumption for the last period of either six months or a year, and to notify the secretary of everything they will want for the next six months or the next year. That is done and the list is made up. We advertise in the public press for ten days according to the law. The lowest responsible bidder gets the contract.

Q. Are the bids sealed bids?

A. Yes, sir. In fact we don't open them, since I have been in the Department, we only open the bids, and generally receive them in the presence of the bidder.

Q. Who makes the award?

A. The Board. It has been customary for one member to open the bids and pass them to me, and I read them and pass the ten per cent. of the demand to the Treasurer and he makes a note of it; the Secretary reporting; the lowest bidder in every case gets the contract.

Q. Can you state how much of the total expenditure during 1886 was made upon contracts?

A. \$275,000.

Q. You mean exactly that amount or approximately that amount?

A. Within a few cents, I think. It was \$271,072.

Q. Do you mean to be understood that there was no case during 1886 when the contract was awarded to some person other than the lowest bidder?

A. I mean to be understood to that effect, that in 1886 no contract was awarded to any person other than the lowest bidder.

Q. Does that mean the lowest bidder according to the bids as furnished to the Department?

A. Yes, sir.

Q. Have there never been cases when bids were squeezed out in some way?

A. No, sir.

Q. Is there any discretion in the Department in reference to awarding the bids?

A. Yes, sir.

Q. What is that discretion?

A. Well, the question rose—

Q. All I wish to know is what is that discretion?

A. I want to get at it in my own way.

Q. I want you to answer my question, please. What I want to ascertain is what is that discretion as actually exercised?

A. Well, there has been very little exercised. We give it to the lowest bidder almost invariably.

Q. I think you said you had always done so?

A. 1886 you were speaking of. You were asking me with reference to 1886.

Q. Yes, I asked you with reference to 1886?

A. Invariably.

Q. Go back then to my question, wherein consists the discretion which can be exercised by the Department in reference to awarding the bids?

A. The word *responsible* bidder printed in the contract.

Q. Is there not a provision of the advertisement which requires sureties to be furnished by the contractor?

A. Yes, sir.

Q. Does not that furnish to the Department a discretion by which the bids can be squeezed out?

A. That would.

Q. How?

A. If the securities are not acceptable to the commissioners.

Q. Or, in other words, if the Department say the sureties are not acceptable, can they reject the bid?

A. They can.

Q. And can they squeeze out a bid in a similar manner by objecting that the bidder is not a responsible person?

A. Yes, sir.

Q. Now, you spoke about one of the contractors during 1886 as a person who carried his office in his hat? What is his name?

A. Townsend.

Q. What did he contract for, and when, during your period of office?

A. In 1866 he was the contractor for coal, druggist's supplies, I think, and druggist's sundries.

Q. Does he carry his druggist office in his hat as well as his coal office?

A. I presume so. I never knew where his office was. I never knew that he had one.

Q. How long have you been acquainted with him?

A. Since I have been a commissioner.

Q. How many contracts has he had during the period that you have been a commissioner?

A. I think he only had two this year.

Q. What were they for?

A. Sundries and coal.

Q. What does sundries mean?

A. Well, it means odds and ends.

Q. Covering what amount in one contract?

A. Well, it probably would not cover \$2,000 in the whole year.

Q. When was the coal contract in 1866 given to Townsend?

A. It was the first of August. That is, from our advertisement of the first of August. I don't know when it was signed.

Q. Did you regard him as a responsible bidder?

A. The question arose in our commission and we discussed the matter.

Q. I want to know whether you regarded him as a responsible bidder?

A. All I can say in reference to that is that I knew nothing about his circumstances except that up to that time he had fulfilled his contracts implicitly.

Q. What discussion was there in your Department about giving to him this contract for coal ?

A. The question arose, he not being a coal dealer, whether he was a responsible man ; and if there should be a rise in coal whether he could fulfil his contract. And the question was answered, on the other hand, that he had had it for a year and was declared by the storekeeper and by everybody connected with the Department as furnishing the best coal that had been furnished to them for years.

Q. Was that all the discussion there was ?

A. That was all.

Q. Was the result of this discussion that the contract for coal was or was not given to Townsend ?

A. It was given to him as the lowest bidder.

Q. Was there any discussion about his sureties ?

A. No, sir ; his sureties were first-class.

Q. Do you remember their names ?

A. Yes, sir.

Q. Who ?

A. Robert Paine, the President of the Board of Education of the City of Brooklyn, and Michael J. Dady.

Q. Who is Michael J. Dady ?

A. A contractor.

Q. For what and with whom ?

A. Well, he is a contractor for constructing for sewers and laying water pipe. I don't think there is any contract too big for him in the State of New York.

Q. Is this Mr. Townsend an actual contractor or is he a name for other persons ?

A. I think he is the actual contractor. I never doubted that.

Q. Do you know his address ?

A. No, sir ; the Secretary would know it if he had got back.

Q. What was the price at which in August, or under your advertisement of August last, he contracted to furnish coal ?

A. \$4.78 and \$4.98 ; \$4.78 to the penitentiary and \$4.98 to the county buildings.

Q. Do you remember what at that time was the current market price of coal ?

A. No, sir.

Q. Was not this contract price under the current market price at the time ?

A. I don't think so ; I don't know, but I don't think it.

Q. Did you not inform yourself upon the subject ?

A. No, sir ; it is a thing you can get no information because we get goods so cheap that people would almost believe they could not be supplied.

Q. How is it you get goods so cheap, and at a price at which people would think they could not be supplied ?

A. Well, we are buying lamb for less than six cents a pound ; we don't pay six cents for all our beef, mutton or lamb.

Q. Is it not generally the fact that the apparent price which supplies are furnished to your department is less than the fair current price at the time ?

A. Is not that the fact ?

Q. Yes.

A. Yes, sir, it is.

Q. Does not that suggest something wrong ?

A. No, sir.

Q. How is it that contractors, if they furnish, or have a contract to furnish, can do it at prices below the current market price ?

A. Well, I will give that up ; I will tell you one thing they have to furnish the goods that they bid on.

Q. What means does your department adopt to ascertain whether a ton of coal furnished under a contract is or is not a ton, or a pound of lamb furnished under a lamb contract is or is not a pound ?

A. Every article is weighed.

Q. By whom ?

A. By our storekeeper.

Q. Is he the only one ?

A. He must weigh everything and give out everything.

Everything passes through his hands that is bought by contract.

Q. How long has he been in the position?

A. He has been connected with the Department—I think he was away once for a few years—I think he has been there about sixteen years.

Q. From whom does he receive his appointment?

A. From the Commissioners of Charity.

Q. When was he last appointed to the position he now holds?

A. Before my time.

Q. Is his appointment an annual or a continuing appointment?

A. A continuing appointment. All appointments are at the pleasure of the Board.

Q. Has he been kept during your time at the pleasure of the Board, of which you are a member?

A. Yes, sir.

Q. Does he weigh and measure all the supplies received by the Department?

A. Him and his book-keeper and a young man as porter are the three engaged in the store house. That work is divided between them. One or the other does that work.

Q. In whose charge is it, who is the responsible person?

A. The storekeeper. We hold him responsible for everything he receives and everything that goes out.

Q. Are there no separate contracts larger in amount than those you have thus far specified?

A. I don't think so. Our coffee and tea comes next I guess. (Witness refers to report.) No, sir, there is nothing approximating to it.

Q. How many bids were there for coal under your advertisement of August last?

A. I can't recollect. The Secretary has the record.

Q. Was there a considerable number?

A. Yes, sir.

Q. Did not some of those bids come from coal dealers, known as such, carrying on the business and having an office in some other place than in their hats?

A. Yes, sir.

Q. Mention the name of any reputable and responsible regular coal dealers who bid under your advertisement of August last?

A. I can't recollect the name of but one, and it was only a controversy that occurred afterwards that made me recollect that. Mr. Townsend was supplying coal through Nelson & Company, coal dealers, of this city, and they had in a bid; he had his agreement with them to supply again this year, and he let it run over by an hour, and lost it, and they put in a bid of their own. That is all I can recollect now.

Q. You mean contractor Townsend sub-contracts with coal dealers?

A. Yes, sir; he did it in this instance last year. I don't know anything about his custom.

Q. Is that true of other persons furnishing supplies to your department under a contract?

A. I couldn't tell you anything about their business.

Q. Can you mention the names of other persons having contracts with your department who do not furnish the supplies themselves but obtain them from other sources?

A. I cannot.

Q. Don't you know the fact to be as I put it to you, irrespective of the names?

A. No, sir.

Q. Where does Townsend get his drugs from?

A. Last year from Schieffelin & Company, New York. I think he beat Mr. Schieffelin on his bid, too.

Q. Is this the fact that Townsend contracted to furnish drugs which are to come from the Messrs. Scheiffelin at a less price than the Messrs. Scheiffelin themselves offered and that he contracted to furnish coal to come from other persons at less prices than those mentioned in the offers of responsible coal dealers?

A. Of course, sir. He was the lowest bidder. He would not have got the contract otherwise. You asked me the question if I didn't know of others who had bought or would underbid the regular manufacturers or regular dealers. I do know of one other.

Q. Mention the name?

A. A man named Robbins, who supplies us with our dry goods and blankets. That man Robbins every time he bids beats all the legitimate dealers. They say they can't see how he does it, but he laughs at them and tells them he will do it every time.

Q. Do you give him contracts?

A. Yes, sir; and he supplies them right up to the handle. He supplies the United States Government—the army and navy both I think.

Q. What amount did his contracts come to during 1886?

A. Well, it varied, so many different items in the book that I couldn't tell you. I think \$25,000 or \$30,000 in a year.

Q. Now, Mr. Reay, don't you know and are you not able to state how it is that a person having a contract with your department will make an offer at rates less than the rates offered by reputable and responsible person engaged regularly in the business?

A. I can't tell why they do it.

Q. Can't be done except by connivance on the part of some person in your department?

A. Yes, sir.

Q. How?

A. Well a man has only to make his bid and make his prices, and if his sureties are good we accept it, and we hold him to the contract. A man cannot connive with the Charity Commissioners; let this be understood now. Every dollar we pay we get a dollar's worth of goods for.

Q. But the problem is now, how can the contractors furnish to you at less prices than those you can get from men who are dealers?

A. Mr. Parsons, I don't know, neither do I care, as long as they do it.

Q. Do you mean to say that you have never taken any means to investigate how that thing can be done?

A. Yes, sir; I have asked on two or three occasions, and have asked those who have been competing and have lost the contracts, if those who took the contracts could supply them.

Q. Has not the answer always been that it could not be honestly done ?

A. No, sir ; it has been " Yes, I guess he can do it," and one of the largest contracts we have, the meat contract, I asked Mr. May, who had lost the contract, if Mr. Evans could carry out that contract, and he figured up a little while, and he says, " Yes, I guess he can."

Q. Who are Mr. Evans' sureties ?

A. I can't recollect.

Q. Can you remember it now ?

A. No, sir. I can when the Secretary comes here. Our department, you must recollect, is a very large department. I can't recollect all these individuals.

Q. Does it happen that the same persons frequently appear as sureties with different persons ?

A. Not with our department.

Q. I mean with your department ?

A. No, sir ; not with our department.

Q. Do you mean to say that never occurs ?

A. I don't mean to say that. I say very seldom.

Q. Can you remember persons who appear as sureties for contractors with your department in different cases ? I mean in cases where the contracts are different.

A. No, sir ; I cannot. I merely look at the bonds when they are given, and if they are satisfactory, or I think they are satisfactory, that satisfies me.

Q. Do you pass upon the bonds ?

A. Not always.

Q. Who else does does that ?

A. My colleagues, the commissioners.

Q. Is not your department a sure pay department ? I mean to ask whether if the Messrs. Schieffelin, for example, bid for drugs they cannot bid on the certainty that they will get their money when they deliver the articles according to the contract time ?

A. Yes, sir ; they are sure they will get their money, and for that reason the contractors like to get contracts with our department.

Q. Should not that ensure you from Messrs. Schieffelin, as drug dealers, or from responsible coal dealers bids at

the lowest price at which the supplies could be honestly furnished?

A. Well, it would seem so, but I understood the fact was last year that Mr. Townsend beat a coal dealer, and then sold the coal and made ten cents a ton on it.

Q. Didn't that strike you as suggesting an explanation?

A. No, sir; I think he was the lowest bidder amongst legitimate coal dealers and honest men.

Q. What is the ton of coal according to your advertisement; a long or short ton?

A. A long ton; 2240 pounds.

Q. What regulates the price for supplies or other expenses of your department, outside of those embraced in the contracts?

A. We expend no money, except, as I said before, from the Contingent Fund, we are allowed \$6,000 a year.

Q. I understood you to say your contracts in 1886 amounted to something over \$270,000 as against a total expenditure of \$465,753.98. What regulates the rate for supplies or other outlays which make up the difference?

A. The salaries account.

Q. What is the amount of salary account for 1886?

A. I can't give you the exact figures, but I think about \$130,000.

Q. What then does the residue of total expenditure represent?

A. I think there was about \$10,000 laid aside for drawing maps, architects' and engineers' work at St. John's land; there was some \$6,000 paid to the city for water; \$6,000 in the contingent account. That is all I can think of just now.

Q. Who does the Department pay the city for water?

A. Well, it has been the custom. The county paying the city.

Q. Is that true of other items of expense in your department?

A. Is what true?

Q. That money goes between the county and the city?

A. No other item that I know of.

Q. Either way?

A. No, sir. They charge us. If we want a new meter put in, or a pipe laid, the city would charge it. It is customary.

Q. Now, coming down to the salaries account, state in a general way to whom those salaries are paid. I do not ask you at this stage of the inquiry for the names, but designate the classes of employees who are paid by salaries?

A. At Flatbush in the almshouse we have a superintendent, a steward and a matron. In the hospital we have a medical superintendent a steward, an apothecary, assistant apothecary and a matron. In the lunatic asylum we have a medical superintendent, three physicians, an apothecary, a steward, an assistant steward and a matron; and I should say about a hundred nurses.

Q. One hundred nurses in that particular institution?

A. Yes, sir.

Q. How many nurses in all that institution?

A. I couldn't tell you without bringing the pay roll here.

Q. Are the nurses doing labor outside of those who hold designated official positions?

A. Well, that brings to my mind one item of expense that I did not explain, of extra expense. We have mechanics, painters, carpenter, plumbers, and one tinsmith that work continually. In the budget last year for that sort of service there was \$10,000 inserted.

Q. Have you a pay roll?

A. Yes, sir.

Q. Is there any pressure by persons desiring to be assigned to these various positions?

A. More or less, always.

Q. Who makes the designation?

A. The appointment?

Q. The appointment?

A. The commissioners appoint.

Q. Does the element of party or politics come into the subject?

A. No, sir; it has not since the 1st of January, 1886.

Q. Do you mean to be understood that applications for

appointment are not made and predicated upon relation to one or other of the political parties?

A. I do not mean to say that at all; I mean to say that all those who approach me for appointment are republicans, and all those that approach my colleagues are probably democrats.

Q. Why are you only approached by those who are republicans?

A. Well, because they think I will look out for them better than the other fellows would, they think.

Q. You being a republican?

A. Yes, sir.

Q. And why do the persons of a different political allegiance apply to your colleagues?

A. For the same reason.

Q. What is the division of your board in reference to party lines?

A. Two democrats and one republican.

Q. Has it been so all of your time?

A. No, sir; last year it was two republicans and one democrat.

Q. How was it immediately preceding the time when you took office?

A. That is hard to tell. I know one of the members was a democrat and the other a republican; the other one I never knew what he was.

Q. When you came in as a republican that gave a republican character to the board?

A. Yes, sir; when I came in.

Q. Succeeding that time was there an inundation of applications for positions immediately succeeding your going into office?

A. Yes, sir; and preceding it for four or five months—that is after I was appointed before I took office.

Q. Were changes made concurrently with your coming into office?

A. No, sir.

Q. None?

A. No, sir.

Q. Is that absolutely so, without exception?

A. That is the absolute fact.

Q. I do not limit it to the immediate day when you entered upon your position; but I embrace all succeeding that day. Do you mean no changes were made following after your entering upon the office?

A. No, sir.

Q. What data upon that subject can be found in the books or papers kept in the office?

A. The secretary can produce the record. The first change in our office was by a consolidation. We discharged one or two men, and never filled their places.

Q. That is not what I am asking you. I want to know what books or papers are kept in the office that will show the changes in the personnel of the department?

A. The secretary's pay roll.

Q. State again, please, what was the price of the Townsend contract for coal under your advertisement of August last?

A. \$4.78 and \$4.98, as I recollect it.

Q. The \$4.98 was for what description of coal?

A. On the schedule there was about five different coals which allowed him to choose from; but the difference in price was that one was to be taken to the penitentiary and the other to Flatbush, a longer haul.

Q. Are you able now to furnish the information about the sureties on contracts with your department for which I asked?

A. I think the clerk has not got back yet. He will be here in a few moments.

Q. I wish to ascertain, as accurately as you can supply the information, how much it costs the County of Kings under the administration of your department in 1886, for the annual expense of an inmate of one of these institutions?

A. About \$128 a year or \$2.30 a week is the gross cost. The net cost is about \$93 or \$94 a year, or about \$1.80 a week.

Q. How did you make up those figures?

A. By money expended and the number of inmates.

Q. Among what number of inmates do you distribute the aggregate expense?

A. Last year we had between thirteen and fourteen thousand to distribute that expense among. That is not counting the county wards, because that expense does not go there.

Q. Do you mean to be understood there are the equivalent of thirteen or fourteen thousand inmates for a year during 1886?

A. No, sir; we had about that many inmates. Our average was about five thousand.

Q. Who make the calculation of which the average is about five thousand?

A. Well, I am making that now in my head. I know about how many are at each institution now. Let me correct that answer. I am including a department in there that I hadn't ought to. We have 5,362 people now, and 1,200 of those are county wards.

Q. Can you state the particulars of the calculation which bring about the result of \$128 or \$93 as the annual expense of an inmate in one of these institutions?

A. The \$128 is founded on the gross cost, paying all salaries and all their supplies and for everything expended. Everything is included as the gross cost.

Q. Do you mean that there are included all the items which make up the total of \$465,753.98?

A. Yes, sir.

Q. Is that calculation then dependent upon dividing that aggregate sum by the average number of inmates during the year?

A. Yes, sir.

Q. What certainty is there that the assumed average of inmates is accurate?

A. That is made up by the head of each department, sent to us in their annual report, and our secretary goes over their reports. It is positive. The per capita of all our institutions is made up every week.

Q. What expenses are involved by the care of the inmates of the several institutions—I mean what expenses personally to the inmates?

A. Everything. All our expenses.

Q. Clothing?

A. Yes, sir.

Q. Who do you clothe, what classes of inmates do you clothe?

A. We clothe every one except, probably, a person that comes in the hospital and only stays a week or two; they will come in with their own clothes and take them away with them; and a few in the Lunatic Asylum.

Q. Do you clothe the inmates of the Penitentiary?

A. Yes, sir.

Q. Without reference to the length of time for which they are committed?

A. Yes, sir; they are washed and have a suit put on them as quick as possible.

Q. What are the lengths of time for which criminals are committed to the Penitentiary, what is the range?

A. Anything over thirty days.

Q. Do you mean then that in case of a commitment for thirty days you change the clothes of the criminal, putting on him the prison garb?

A. Yes, sir.

Q. What becomes of his clothes at the expiration of his term of imprisonment?

A. Give them back to him.

Q. I mean prison clothes?

A. They are used by the next man that comes along.

Q. What become of these clothes ultimately; are they sold when they reach a certain condition?

A. I expect so, when they are of no further use.

Q. Who regulates that time?

A. The Warden.

Q. Does the Department make sales of articles which are purchased by it or for it?

A. Condemned articles, yes sir.

Q. Who makes the condemnation?

A. The heads of the different institutions.

Q. What classes of articles are those condemned and then sold?

A. Old clothes, old bedsteads, and in our Lunatic Asy-

um a great many benches. A great many articles of furniture are broken continually, and we have to condemn them.

Q. Who controls the question whether under this assumption of the sale of old articles there may not be included articles still suitable for use or new?

A. The heads of the different institutions.

Q. Is there any general officer who is charged with any responsibility to see that there is no fraud perpetrated here?

A. At the County Farm in Flatbush; yes, sir, the engineer.

Q. May that not be very easily turned into an avenue of fraud?

A. No, sir.

Q. Why not?

A. Because there are too many honest men around it.

Q. That begs the question. I wish to know whether, if there is a willingness to connive, is not that a very easy outlet for large sums from the public treasury?

A. No, sir; there are too many people for it to pass through. It would have to pass through too many hands.

Q. As in the matter of drugs; what prevents having drugs go out of the department under the pretense that they have been condemned, and are no longer fit for use?

A. Nothing but the honesty of our employees.

Q. What employee is responsible to see that no fraud of what kind is perpetrated?

A. The heads of the different institutions. They have supreme control of the institutions.

Q. Which of the institutions involves the largest expenditure?

A. The Asylum.

Q. Who is the head of that?

A. Dr. Ferris at present.

Q. How long has he held the position?

A. Since the first of February of this year.

Q. Who preceded him?

A. Dr. John Shore.

Q. Which of these institutions involves the largest expenditure next to the Asylum?

A. The Alms House, I think ; I am not positive without my book.

Q. Who in the Alms House has assigned to him the duty of seeing that there is no leak through this system of selling articles which have been condemned ?

A. The Superintendent. Understand me, all these are condemned by the engineer. They are not sold by the superintendent of the institution.

Q. Who sells them ?

A. The engineer or the storekeeper.

Q. Does it come down to this, that the sales in the end are made through one official ?

A. Yes, sir.

Q. Who separates the articles which are to be sold ?

A. Well, in the Insane Asylum, for instance, every Friday is what they call condemning day. They go through the whole building and condemn that clothing that has no further use for wear, and furniture of no further use, and is taken down in the sub-cellar. You understand me that where we have 1,500 lunatics a great deal must be condemned. They break a great deal of stuff.

Q. Are drugs a large item of condemned supplies ?

A. No, sir ; I never heard of any drugs being condemned. We don't condemn drugs.

Q. Do the accounts of the Department contain an item of the result of these sales ?

A. Yes, sir.

Q. What did they amount to in 1886 ?

A. I don't believe our sales in the year of condemned articles amounted to \$500 for all institutions.

Q. I want the exact figures for 1886, if they can be supplied ?

A. I think it is in that table in the report. Those sales are generally incorporated with the sale of old packages and boxes from the store house, which amount to a great deal. Now I find in the Alms House Department the sale of old material \$1,477.88.

Q. For 1886 ?

A. Yes, sir ; now it strikes me—I cannot find any other article of sale—that that includes all the old boxes, packages

flour barrels, &c., because I see the storekeeper has no account of any sales. His office is connected with that department and he sells all the old material, all the packages. Our package bill amounts to considerable.

Q. Do you buy kindling wood?

A. Yes; I think we do buy some kindling wood for one or two of the institutions. I do not think we buy any of the material.

Q. What is the explanation of buying kindling wood and selling old boxes. Why don't you use the old boxes?

A. I suppose for the same reason that I would not use any old barrels at home for kindling wood. It would cost more to cut it up.

Q. I ask you about boxes, not barrels?

A. I don't know that they buy any kindling wood at the County Farm. I don't know that they do, so I can't answer your question. There is no kindling wood here. Here is a list of all we purchased.

Q. Has your contract book come in yet?

A. It is not here yet.

Q. I will pursue the subject of condemned articles a little further.

Q. What record is kept of articles which are sold or that go away from the institutions under the assumption that they have been condemned?

A. The storekeeper has a complete record of that.

Q. Is that a record that you have ever seen?

A. No, sir.

Q. Where is that record kept?

A. In the storehouse. He sends his report to the secretary. I don't go over his reports verbally word for word.

Q. What duties are discharged at the office of the Department and what officers discharge their duties there—I mean the office of the Department by contradistinction from the County Farm?

A. What duties are performed there?

Q. Yes?

A. Well, that is where we receive all applications for commitments to either the hospital, the alms house, the

asylum, or for the care of children. That is where we receive all complaints in bastardy and abandonment cases. We have two bureaus there, the Bureau of Relief and the Bureau of County Wards. All the executive work is done there in the Department.

Q. Are reports made from the institutions to this central office?

A. Yes, sir.

Q. Do those reports cover the items of receipts and disbursements?

A. Yes, sir.

Q. Does this mean that if there is absolute honesty everywhere one can find out at the central office how much comes from the sales of articles assumed to be condemned and how much from all other sources, and what the total expenditures are and for what purposes?

A. Yes, sir; all the moneys expended from that central office. The Department don't expend any money on the County Farm. Everything is expended at our office. As you will see there, everything is expended on requisition.

Q. Are the reports from the institution periodic?

A. Every week.

Q. Mr. Reay, how often do you make up or does your Department make up schedules of supplies?

A. Every week.

Q. How often do you issue advertisements for bids?

A. We issue them twice a year. But the necessity may arise where we have to issue oftener on account of some necessity. It may require that we furnish some articles or certain articles asked for on the requisition, and we not having the power to buy in the open market have to advertise; and in every case where we have to do that we send around to the different institutions and ask them to send a list of such goods that they might want that are not on the schedule.

Q. Is the schedule that was made up for 1886 here?

A. I will request Mr. Toal to explain that book to you.

Q. Will you look at the book which is produced by Mr. Toal and say whether that shows the schedule that was made up by your department for the advertisement of August, 1886?

(Counsel shows book to witness.)

A. That is it, sir.

Q. Into how many separate articles was that schedule divided, of August, 1886?

A. 2013.

Q. And subdivided into how many classes?

A. 32.

Q. Was each class the subject of a separate contract?

A. Yes, sir.

Q. What is the largest number of articles in any one contract?

A. I think it is drugs. I am not positive.

Q. How many articles?

A. 515.

Q. What class is that?

A. The drugs class.

Q. Who was the contractor under the advertisement of August, 1886?

A. I think the Messrs. Schieffelin.

Q. For the entire class?

A. Yes, sir; W. H. Schieffelin & Company.

Q. Was not Townsend a contractor during 1886 for drugs?

A. Yes, sir; the fore part of it. We ran over the year. Our fiscal year commenced on the first of August.

Q. Does that mean that Townsend furnished no drugs after the first of August?

A. Yes, sir.

Q. For what description or class of articles was Horace Burrows, a contractor in 1886?

A. I can't recollect.

Q. Will not that account show?

A. Tiles, firebrick, &c.

Q. Will you let me have that book, please?

A. Yes, sir.

(Witness presents book to counsel.)

Q. Mr. Reay, wherein do the duties of the president of the department differ from those of his associates?

A. Well, very little difference except there are certain legal proceedings in cases of abandonment, removing

tramps from the penitentiary to the alms house under a special law, and commencement of proceedings, I think, in bastardy cases, require the signature of the president, but in fact I sign nearly all commitments and discharges, and presiding over the meetings; the responsibility is equal.

Q. I wish to know about the practice, and not about the responsibility. According to the practice of the office wherein do the duties of the president differ from those of his associates—and I allude specially to duties which concern making contracts and buying supplies, or any relation to money matters?

A. No difference from any of the rest.

Q. Who signs the contract?

A. I sign the contract, but I forget whether the others sign with me or not.

Q. Are the three Commissioners always present at the opening of bids?

A. Yes, sir; invariably.

Q. When did you become president of the department?

A. The first of January, 1886.

Q. Have you continued president down to now under that appointment?

A. No, sir, not under that appointment; I was re-elected on the first of January, 1887.

Q. What was the political composition of the board at that time when you were re-elected?

A. Democratic; it is nothing strange; I was elected President of this Common Council when it was Democratic.

Q. How was that brought about—I do not speak about your being elected President of the Common Council but of the Department of Charities?

A. Well, one of the members nominated me, and voted for me, and of course, that elected me.

Q. Does that mean that you and one of the other members elected you?

A. Yes, sir; I never ask any one to do for me what I am not willing to do for myself; I voted for myself.

Q. Who were the majority?

- A. Which party ?
- Q. No, the names ?
- A. Commissioner Hynes—
- Q. And Commissioner Reay ?
- A. Yes, sir ; Commissioner Reay.
- Q. What is the name of the third Commissioner ?
- A. Benjamin F. Gott.
- Q. Is he in attendance, do you know ?
- A. I haven't seen him this morning; he is generally here; we have seen him here two or three days.
- Q. What arrangement can be made for the examination of the counsel for the Committee of these books; can they be examined at your office ?
- A. Yes, sir; at any time; I will be only too happy to show you any papers and books you wish to have to further our work; and if necessary the superintendents of the different institutions can be here.
- Q. Who makes the subdivision into classes of the various articles which are furnished to the Department under contracts ?
- A. The Secretary of the Board.
- Q. On his own responsibility or on consultation with the President ?
- A. Well, these were all subdivided before we came into the Board.
- Q. Have they been continued by you under your administration ?
- A. Yes, sir.
- Q. Did you look over that subdivision for the purpose of seeing whether it could be and whether it was so arranged to admit of fraud in making bids ?
- A. Yes, sir, we looked over it and thought it was very sure. In fact we thought we could better it the first time and we burned our fingers trying to alter it.
- Q. Is it not possible to make that subdivision in such a way as to give special privileges to contractors ?
- A. No, sir.
- Q. Can you not group articles in such a way as to exclude persons in a regular line of business ?
- A. It might be possible. It may be possible to exclude

one or two people who deal in a certain line. On the other hand, it would put us in this position, that we would have so many bidders on different lines of goods that it would not pay them to go out there and we would have to pay a great deal more for our goods. You must offer an incentive to make them bid.

Q. What expedients do you resort to to diminish the number of bidders?

A. We use every expedient at our command to increase them.

Q. I understood you to say that one possible result of the arrangement into classes might be that you would have a very large number of bidders?

A. No, sir; what I meant to say was we would have so many articles to bid on that it would not be worth while for any bidder to bid on them. Oftentimes now a man bids for a list of sundries and he gets one or two articles, and he will come around and ask us to relieve him from it because it would not pay him to send them to Flatbush. He is expected to get enough to make it a paying investment.

Q. Is there a class called sundries?

A. Yes, sir.

Q. Is each article in the class of sundries made the subject for separate proposal?

A. If in a class it is not subdivided. (Witness examines book). Yes, sir, those are separate proposals for each item, or as many as they please to bid for.

Q. Do you know what was the total amount in 1886 paid for articles coming within the class of sundries?

A. No, sir.

Q. Can't that be got at?

A. Yes, sir; the Secretary can furnish that information.

Q. Does there exist a separate account which will show that?

A. I think so, yes, sir.

Q. Are you able to say whether the information can be obtained without analyzing the general accounts?

A. I think it can.

Q. Who will know that—the bookkeeper?

A. Yes, sir; the secretary and bookkeeper.

Q. Is he here now?

A. I think so. He stood by your side a moment ago.

BY MR GREENE: Q. Does your board have a counsel?

A. Yes, sir.

Q. Who is the present counsel?

A. John A. Kemble.

Q. When did he become the counsel of your board?

A. About May, 1886.

Q. Then after you came in there was a change of counsel?

A. Yes, sir.

Q. Whom did he succeed?

A. Mr. Adolph Simas.

Q. Do you know what the name of this Mr. Townsend is who carries his office in his hat?

A. No, sir.

Q. Did he run for any office last fall in this county?

A. I couldn't tell you.

Q. Did he run for Auditor in this county?

A. I couldn't tell you.

Q. Do you know whether anybody by that name did run for Auditor in this county?

A. I know there was such a man.

Q. Is not that the same man?

A. I have heard it was.

Q. On what ticket did he run?

A. On the Republican ticket.

BY MR. PARSONS: Q. What is the first name of the Mr. Townsend who ran for Auditor?

A. Upon my honor I don't know.

Q. Was it H. E. Townsend?

A. I think so.

Q. Are not those the initials of the gentleman who carries his office in his hat?

A. I think so. I think those are the initials of the gentleman I said carried his office in his hat. I never knew where he kept his office. But whether those

are the initials of the man that ran for Auditor I couldn't tell you. I would assist you to get something on a republican if I could.

BY MR. COLE : Q. Was he elected ?

A. He was elected to stay home.

BY MR. PARSONS : What is the state of your mind at the present time as to whether the gentleman carrying his office in his hat is the same gentleman that ran for Auditor last autumn in Brooklyn ?

A. I believe he is.

Q. Have you any doubt about it ?

A. Very little.

Q. Have you any doubt about it ?

A. Very little, I say.

Q. Have you any ?

A. I don't know that it is the same man. I heard so.

Q. When did you first hear so ?

A. I think through one of the papers in Brooklyn last fall.

Q. What did the newspaper say on the subject ?

A. I give it up now. It is too long ago. Merely what I have intimated, that Mr. Townsend, the contractor, was seeking or had sought the nomination for Auditor.

Q. From what body ?

A. Republican party.

Q. Were you a member of the organization which gave him the nomination ?

A. No, sir.

Q. Did you have nothing to do with the matter of his nomination ?

A. No, sir.

Q. You mean that answer to be taken literally as covering the entire subject.

A. I mean I am under oath.

Q. I find in this book of supplies for 1886, under the head of "Description of articles, quantity, price, aggregate," this item : "No. 41, coal for Alms' House Department, 4,000 tons, \$4.98 per ton. H. E. Townsend." Does

that mean that he was the contractor at that rate for that quantity of coal during 1886 ?

A. He is the contractor for coal, yes, sir.

Q. Was he the contractor for coal under the advertisement issued by the Department while you were its president, and in August, 1886 ?

A. Yes, sir.

Q. The following item in this book reads, "Coal for Penitentiary 1,000 tons, \$4,78, ditto, ditto." The ditto being under the name of H. E. Townsend. Is that the same gentleman ?

A. Yes, sir, that is the same gentleman.

Q. How long have you been acquainted with Mr. Townsend ?

A. Since the first of January, 1886.

Q. Do you mean that you had no acquaintance with him prior to that time ?

A. I mean to say that I had no acquaintance with him prior to that time, although he did some time during 1886 recall to my mind, or tried to recall to my mind, that he had a position in the Comptroller's office some years ago. I failed to recall him.

Q. What occasion was there for his trying to remind you that he had held a position in the Comptroller's office; how did that come up ?

A. I couldn't tell you now.

Q. In connection with what business of your department did he make that explanation ?

A. No business with the department.

Q. Where was it that explanation was made ?

A. That the assertion was made, you mean ? In our office.

Q. What was he in your office for ?

A. Mr. Townsend was in the habit of coming to our office three or four times a week.

Q. What about ?

A. I couldn't tell you.

Q. Curiosity ?

A. I couldn't tell you. He didn't come to see me.

Q. Who did he come to see ?

A. His business was chiefly with the Secretary in relation to his contracts, I suppose.

Q. You mean with Mr. Toal?

A. Mr. Townsend didn't like to see me very much.

Q. I ask you whether the secretary you mean was Mr. Toal?

A. Yes, sir; but you are asking my sources of information too, and I must answer in my own way and not particularly yours.

Q. I find on this same page of this same book this item, "No. 49, flannel, plain or striped, as per sample, 500 yards 34 85-100 cents a yard." Is that the same individual?

A. Yes, sir; there is no other Townsend a contractor in the Department that I know of.

Q. I find also this item, "No. 45, crude oil, fifty thousand gallons, 5.25 per gallon, H. E. Townsend;" is that the flannel and coal gentleman?

A. I presume so.

Q. Mr. Goodrich and I seem to be in some little doubt what exactly is the figure per gallon for the crude oil?

A. 5.25.

Q. Cents?

A. Yes.

Q. Does that mean five and twenty-five hundredths cents?

A. Yes.

Q. Five and a quarter cents a gallon?

A. Yes.

Q. What does your department contract for fifty thousand gallons of crude oil at a time for?

A. Making the gas at the penitentiary.

Q. Do you know whether that price is under or above the market price?

A. A pretty low price.

Q. Was it not at that time over the market price?

A. I can't say exactly; that is a matter that I know something about, and that is about the price. I bought it as cheap as that for my own use—for my own business.

Q. From a regular dealer?

A. The Standard Oil Works.

Q. Do you know what the Standard Oil Works price was?

A. At that time ; no, sir.

Q. Where did Mr. Townsend get this coal ?

A. I have no means of knowing.

Q. Do you not know who delivered it ?

A. Yes, sir.

Q. Who delivered it ?

A. The latter part of the time Mr. Wilkes. I say I know he delivered it—I don't know he delivered it the fore part of his contract ; the latter part of his contract I know that Mr. D. W. Wilkes delivered it.

Q. Who is Mr. D. W. Wilkes ?

A. A coal dealer.

Q. Where ?

A. Third avenue and second street, I think it is.

Q. Brooklyn ?

A. Yes, sir.

Q. Was he a bidder ?

A. He was a bidder for part of the coal and got the contract for the coal and kindling wood at the Morgue.

Q. Was he a bidder for crude oil ?

A. Not that I know of.

Q. What explanation is there that he, a coal dealer, delivered crude oil under Townsend's bid ?

A. Oh, he didn't deliver the crude oil ; I thought you meant coal.

MR. GREENE : You said coal, I think, Mr. Parsons.

MR. PARSONS : I beg your pardon, I apparently mislead you.

Q. I meant to ask you who delivered the crude oil ?

A. Oh, I have no means of knowing.

Q. What is your recollection of whether Mr. Townsend was a contractor for other articles during 1886, than those to which your attention has now specially been called ?

A. I say, excepting the sundries I have no recollection of his having any other contract.

Q. Mr. Reay, do you have in mind now other persons

who obtained contracts from your department for supplies belonging to a business in which they were not engaged?

A. I spoke of the firm of Robbins & Co., in New York, who supplied us with flannels, blankets, etc.

Q. Are they the only other persons whom you can now remember?

A. Yes, sir. There is a gentleman by the name of Walsh who supplies us with some articles, and I believe has supplied our department for years; I don't know his business, but I have heard that he supplies us with goods that he doesn't deal in himself. In fact, the gentlemen who are bidders, I don't know them—I don't know their business, and don't care; their bids are there and they give us good security, and that is all I know of.

MR. PARSONS: Mr. Chairman, we have had under subpoena, or under direction to appear here, a Mr. Sargent whose testimony does not refer to any subject which thus far has been touched: but Mr. Sargent is said not to be well, and to desire to leave for Bermuda during the coming week, and we took the liberty of saying to him or to some gentlemen who called upon us about him, that if he would be here at one o'clock to-day we would examine him; so that, with the permission of the Committee we will ask Mr. Reay to step on one side, and call Mr. Sargent.

William D. Sargent, being duly sworn and examined as a witness, testifies as follows :

BY MR. PARSONS: Q. What is your present occupation ?

A. I am general manager of the New York & New Jersey Telephone Company.

Q. How long have you been connected with that Company ?

A. Since 1882.

Q. Is that Company at the present time enjoying any privileges of a public character in the City of Brooklyn ?

A. We have our poles in the streets, and also our conduits for the under-ground wires in the streets.

Q. When were your poles put in the streets of Brooklyn ?

A. The Company started here, or rather our predecessor, which was the Long Island Telephone Company, in the fall, I think, of 1881, and we have been erecting poles more or less since that time.

Q. When did you begin conduits under the streets ?

A. We began in the fall of 1884.

Q. Is there any law prohibiting privileges of this kind to private corporations or individuals of which you happen to know ?

A. Prohibiting under-ground privileges ?

Q. Or above ground ?

A. There is at the present time a prohibitory ordinance ; that is, there is a resolution passed by the Board of Aldermen requiring us to come to them for permits to lay our wires under-ground. I don't believe there is anything else.

Q. When was this ordinance passed ?

A. I don't remember the date ; it was some time in December.

Q. Of 1886 ?

A. Yes, sir.

Q. What do you know of a law passed in 1884 bearing upon the right to erect poles ?

A. The law of 1884 was the first under-ground law that

was passed by the Legislature; that was subsequently amended, I think, in 1885, by the present under-ground law which appoints the present Sub-way Commissioners, and under which we are working now.

Q. Does either the original act or its amendment prohibit the erection of poles?

A. My recollection of the first act is that it did prohibit the erection of poles, but that the amendatory act permitted the erection of poles within the discretion of the Sub-way Commissioners.

Q. Did you erect any poles during the prohibited period?

A. I couldn't answer that.

Q. Why not?

A. I haven't the data; I couldn't say just when we did put up the poles, but my impression would be that we did put up poles more or less all the time.

Q. How were you able to put up your poles in Brooklyn during the time when doing so was prohibited by law?

A. The enforcement of the underground law, to the best of my recollection, was left in the hands of the Mayor and the City officers, and we had a consultation with the Mayor and the City officers at that time, and our work proceeded upon that understanding. I am not altogether clear just what we agreed on, but I think the Mayor took the ground (it was Mayor Low, at that time), that the first law could not be enforced, and it was, after consultation with him as to the power to enforce that law, that we proceeded with our work, and all our work was done under permission granted through the Department of the City Works of the City of Brooklyn. No poles were planted by us at any time since 1882, since I have been connected with the company, except such as were planted by permit of the city authorities, the Department of City Works.

Q. Do you mean that after the passage of the law prohibiting the erection of the poles, no poles were put up by the company until after a consultation with the authorities of the City of Brooklyn?

A. That is my understanding, yes, sir.

Q. How long was the period during which, if such was the fact, you suspended the erection of the poles?

A. I could not state that positively; I could only state that positively by reference to our records.

Q. Was it a long or a short time?

A. That I couldn't state, how long it was. I have, I think, a communication here from the Mayor that perhaps will enable me to fix that date. (Searching for the paper.) No, I haven't got it with me, but we received a communication that was sent to all the telephone and telegraph companies, from Mr. Low, asking for a conference on the subject of the enforcement of the underground law.

Q. Is the law of 1884 what you describe as the underground law?

A. That and the amendment of 1885.

Q. The law of 1884 prohibited the erection of poles, as I understand?

A. That was the law under which the Mayor sent the notice to the different companies to confer with him with regard to its enforcement.

Q. Were you present at that conference?

A. Yes, sir.

Q. What was the date of that conference?

A. I couldn't fix it. Probably by the records in the office I could fix it and by the date of the Mayor's notice; I think he fixed the date in his notice for the conference; I was under the impression that I had put it in my pocket when I came over here.

Q. Is there a law suit pending touching the erection by your company of poles in Brooklyn?

A. There was a suit brought against our company for planting poles in Classon Avenue.

Q. By whom?

A. By Mr. Chamberlain, I think, was one; there were three suits there.

Q. By property owners?

A. Yes, sir.

Q. When were those suits commenced?

A. They were commenced, I think, in last October.

Q. Do you know anything about a suit affecting the location of poles in Henry Street?

A. We were served with an injunction in regard to the location of the poles on Henry Street.

Q. By whom?

A. I forget the name of the property owners there, but I think it was the Presbyterian church.

Q. Was the name or one of the names McKeen, or is that name associated in any way with the suit?

A. Mr. McKeen was the lawyer, I believe.

Q. The lawyer in the suit against you was Mr. McKeen?

A. Yes, sir.

Q. When was that suit brought?

A. Very shortly after the Classon avenue suit. Injunctions were served on us in those suits, they applied for injunctions; they were not, strictly speaking, suits; they applied for injunctions and stopped the work. That work was being done by us for the Fire Department; the poles were not erected under any permits issued to us.

Q. I am coming to that branch of the case in a few minutes; but I first wish to ascertain about those suits. Did not your company make arrangements to erect a large number of poles on some legal holiday; some day when the Courts were not in session?

A. I think not.

Q. Give me your best recollection upon that subject?

A. I am aware of no such erection of poles as that on the part of the company.

Q. What was done, if anything, in the way of a simultaneous erection of a large number of poles?

A. There was nothing done in that direction at all; the poles were put up in the ordinary way as we usually do.

Q. Do you not remember that extensive arrangements were made to put up poles in the streets of Brooklyn on Decoration Day?

A. There was no such arrangement made by our company; no, sir.

Q. Who did the work of putting up these poles; the company itself, or a contractor for the company?

A. These poles were put up by the Telephone Company for the Fire Department ; our men put them up.

Q. I am coming to the Fire Department shortly. Now I am concerned about the New Jersey and New York Telephone Company ?

A. They were put up by the New York and New Jersey Telephone Company's men.

Q. Was the putting up of poles, against which these injunctions were issued, done under permission from any authorities of Brooklyn ?

A. Under permission from the Department of City Works.

Q. Issued when, and to whom, and by whom ?

A. The dates I could only give you by referring to the permits themselves that were issued by the Department of City Works to the Fire Department.

Q. To the Fire Department ?

A. Yes.

Q. How happened it that permits, under which you were to erect poles, were issued not to your company but to the Fire Department ?

A. We have erected a large number of poles for the Fire Department ever since we have been in operation since 1882 ; and that was the customary way in which the work was done, that the permits were taken out in their name and given to us, and we erected the poles ; the poles under those permits were the property of the Fire Department—this special lot of poles.

Q. What use has the Fire Department for telephone poles ?

A. The poles are used in common by the Fire Department and the Telephone Company.

Q. But I have reached the Fire Department now, and wish to inquire what use the Fire Department has for telephone poles ?

A. Telephone poles are precisely the same as telegraph poles ; there is no distinction between them. The Fire Department have use for telephone poles in connection with their telegraph system ; they have quite a number of their stations connected by telephone wires.

Q. By telephone wires do you mean telegraph wires?

A. I mean wires on which telephone instruments are operated.

Q. Has this work been done under some bargain with the Fire Department?

A. It was done under the agreement or understanding that we should have the right of way for our telephone wires on their poles.

Q. Who made the bargain or understanding?

A. The first poles that we put up in 1882 under Commissioner Partridge, and the arrangement continued right straight along down to the present time.

Q. Who made the arrangement?

A. The arrangement was made between the Commissioner at that time and myself.

Q. What was the arrangement; give the particulars of it?

A. That we were to erect the poles for the Fire Department; to erect new poles and rebuild and maintain them for the Fire Department, at our entire expense, with the privilege of placing the telephone wires on the poles.

Q. How many poles have been erected under this arrangement?

A. I couldn't say without referring to our records.

Q. Can you give no information about the number?

A. I think that roughly the amount of work that we did for the Fire Department in those three years would be about thirty-five or forty thousand dollars; it would have cost the city to have done that work, if we hadn't done it for them, that amount of money.

Q. That is at the rate of how much a pole?

A. Well, the rate per pole varies.

Q. I mean at what rate per pole would the amount figure up at thirty-five or forty thousand dollars?

A. I couldn't answer that until I knew the number of poles.

Q. Isn't the rate very different to the actual cost to your company of putting up the poles?

A. I don't understand your question.

Q. In stating that you have saved the First Department

by the erection of these poles thirty-five or forty thousand dollars, which would be the expense if the Department had erected the poles, are not those figures reached upon the cost per pole very different to the actual cost of their erection?

A. I think not, sir.

Q. Have you any means of furnishing that information?

A. Of the number of the poles?

Q. Of the number of the poles and of the cost to you as contrasted with the assumed cost if the Fire Department had put up the poles?

A. We could arrive at that very closely—the cost of the poles, I believe. There is no difficulty in distinguishing poles that we put up for the Fire Department, and that information could be gathered.

Q. How extensively have you put your poles through the city?

A. I think we have about between forty and fifty miles of pole line.

Q. And has it all been done under the assumption that the poles have been erected for the Fire Department, and upon permits issued by the City Works Department to that Department?

A. By no means. We put up a great number of poles which are our own property entirely and under permits issued to us.

Q. When?

A. During the whole period of 1882 to the present time.

Q. Can you discriminate the number of poles that have been put up by you as your own property, from those that you speak of as the property of the Fire Department?

A. Without any difficulty whatever. Our poles are painted with the tops white and the butts lead color, and usually with the name of the company stenciled on the pole. The Fire Department poles are painted with the "butts," as we call them, red.

Q. How does the number correspond?

A. That I couldn't say from recollection. The records can be had from the Department of City Works. We

make a report to them every year and I don't carry the number in my mind.

Q. Which is the larger?

A. Ours is the largest. The poles belonging to the New York and New Jersey Company exceed those of any other Company in this city I believe.

Q. I am only now contrasting the number of poles put up by your company, which you described as its own property, with those which you described as the property of the Fire Department; can you tell how the two compare?

A. I could not tell you the relative proportions; no, sir.

Q. Is the number that you have put up, which you speak of as your own property, largely in excess of the other?

A. Very largely in excess of the Fire Department; yes, sir.

Q. Have not all those poles been put up in violation of law?

A. No, sir.

Q. What part of them have been put up in violation of the law?

A. None of them.

Q. Were none of them put up during the period that the act of 1884 prohibited the poles? All our poles have been erected under permits from the Department of City Works, and under all the necessary regulations that were considered requisite by ourselves and the City Officials.

Q. But in violation of the law of the State, was it not?

A. I don't know that it was in violation of the statute at all; I don't think that it is, because we should not have wanted to put ourselves in that position.

Q. Who on behalf of your company has examined the subject of what the law permits and prohibits?

A. Mr. Alexander Cameron, as counsel for the company.

Q. What size of poles does the Fire Department require for wires used by it?

A. That depends on circumstances, very largely. The poles in the city range from 45 to 75 feet in height.

- Q. Do you mean those erected by your company ?
- A. I am speaking of poles generally.
- Q. What is the size of poles erected by your company ?
- A. They vary from 45 to 75 feet.
- Q. Carrying how many wires ?
- A. Well, the 75 feet poles, I should presume, will carry wires. About that.
- Q. Of that number, how many are needed for the Fire Department on those poles ?
- A. There are no Fire Department wires on those poles.
- Q. How then did you have those poles erected under permits to the Fire Department ?
- A. We didn't erect them under the permits to the Fire Department ; those are our own poles.
- Q. Under what arrangements were they erected ?
- A. Under our arrangement to erect all the poles required the city under permits issued by the Department of City Works, and under what we considered our rights under charter.
- Q. What size of poles erected by you are used by the Fire Department ?
- A. The poles erected by the Fire Department range from 60 to 65 feet.
- Q. Carrying how many wires ?
- A. Well, that differs ; you can put on a 60 foot pole, I should judge, about 60 to 80 wires.
- Q. Take a pole of that size and carrying that number, how many of those wires are used by the Fire Department and how many by the New York and New Jersey Company.
- A. If what you want to know is how many wires the Fire Department requires on any one pole in any particular locality, I can answer that ; that depends on how near they are to their central office, and I presume that the number of wires they need on their poles varies anywhere from four to fifty.
- Q. What I wish to ascertain, Mr. Sargent, is the relative use, as between you and the Fire Department, of poles

which you have erected under permits given to that Department?

A. That could only be arrived at by an inspection of the poles themselves. We are on the Fire Department poles to a limited extent; the Fire Department occupies our poles to a very considerable extent. What the mileage of wire would be, however, I could not answer off-hand.

Q. What means are there of ascertaining to what extent these assumed Fire Department poles, by which I mean poles erected by your company under permits to the Fire Department, are used for the private purposes of your company?

A. That could be ascertained.

Q. How?

A. By a reference to our records.

Q. Who will have that information?

A. Mr. J. C. Reilly, our superintendent.

Q. Is he as fully informed upon this subject as you are?

A. Quite so.

Q. Where is the head office of your company, or rather where is the office in which you keep the records to which you have just referred, and from which Mr. Reilly can get the information for which I have asked?

A. 397 Fulton street, Brooklyn.

Q. Will you see that there is prepared a statement on any basis that will show the contrast, indicating the extent to which your company uses these so-called Fire Department poles by contrast with the extent to which the Fire Department uses them?

A. I can give you the record as to our use of the poles; I have no means to furnish the record for the Fire Department use of the poles.

Q. Do you mean that there are no data in your office by which it can be ascertained whether the Fire Department does or does not, and to what extent, if it does use those poles?

A. We keep no record whatever of the Fire Department wires.

Q. What is a fair mode of contrasting the use of poles; is it the basis of the mileage of wires?

A. Well, that is one way, yes.

Q. What is a practical way?

A. That would be a fair way I should think; to contrast the mileage of wires on the Fire Department poles with the mileage of wires that the Telephone Company have on them. We can furnish the mileage of wires on the part of the Telephone Company.

Q. Who has put up the wires used by the Fire Department?

A. The Fire Department themselves, so far as my knowledge goes.

Q. Has your company had nothing to do with it?

A. None whatever.

Q. Do you know whether it is done by contract?

A. I don't know anything about their arrangements.

Q. Have you not had charge of the erection of your own poles and of superintending the wires upon them?

A. We have had charge of stringing our own poles and running our wires.

Q. I mean personally?

A. Me personally? No sir; that is done under the supervision of Mr. Reilly.

Q. When was your company organized?

A. I don't know whether it was organized in July, 1882, or 1883; the record will show; I had nothing personally to do with the charter and organization.

Q. What is its official name?

A. The New York and New Jersey Telephone Company.

Q. What has it to do with New Jersey?

A. We have the right for the telephones in the State of New Jersey in a radius of thirty-three miles from the City Hall at New York.

Q. The right conferred by whom?

A. By the American Bell Telephone Company.

Q. Is that all that your Company has to do with New Jersey?

A. Yes, sir; we have the business in that territory there; it includes the towns of Paterson, Plainfield, Eliza-

beth, and as far south as Long Branch ; it goes beyond the thirty-three miles limit in Monmouth County ; our territory embraces all Monmouth County.

Q. Do you mean that you are exercising that privilege at this time ?

A. Yes, sir.

Q. Why is your principal office in Brooklyn ?

A. Brooklyn is the largest city in our territory, and requires the most care on the part of the chief officers.

Q. Is that the only circumstance which localizes your company in Brooklyn ?

A. I don't feel competent to answer that question.

Q. Do you know why the company was organized in Brooklyn ?

A. Let me understand what you mean by "organized in Brooklyn ;" we were organized under the regular State laws of New York.

Q. But was the organization actually worked out in Brooklyn ?

A. Our headquarters have always been in Brooklyn ; and, to the best of my information and belief, the organization was effected in Brooklyn.

Q. Who is your president ?

A. Charles F. Cutler.

Q. Is he a Brooklyn man ?

A. No, sir ; he is a New York man.

Q. Are any persons connected with the Fire Department interested in your company ?

A. No, sir.

Q. Have they never been ?

A. No, sir.

Q. I mean to embrace all directions of interest—stockholders or officers or trustees, or interest in anyway ?

A. To the best of my information and belief, none of them have ever been interested in any way at all.

Q. Who is the head of the Fire Department in Brooklyn now ?

A. The Commissioner is Mr. John Ennis.

Q. Who are the other persons into relation with whom

your company is brought in availing of these permits extended to the Fire Department ?

A. Commissioner Ennis, Chief Thomas F. Nevins and Superintendent Watson are the three people that we communicate with.

Q. Is your company a dividend paying company ?

A. Yes, sir.

Q. For how many years has it been a dividend paying company ?

A. We have paid dividends since 1882, I think ; I think since the fall of 1882, with the exception of two occasions.

Q. Under what arrangement has your stock been issued, and what is the amount of your capital ?

A. The amount of our capital is \$2,400,000,

Q; Issued for what ?

A. Issued for the property, plant and franchise.

Q. Not for money ?

A. I suppose those represent money.

Q. Yes, perhaps ; the question is whether any of your stock has been issued for money direct ?

A. I don't think I can answer the question ; really I don't know. I am not the treasurer of the company, but, as far as my knowledge goes, I believe the stock was issued for money.

Q. Who will know for what the stock has been issued, and to whom the stock has been issued, and who at the present time are interested in it ?

A. Mr. Charles F. Cutler is our president, and Mr. George C. Clark is the treasurer.

Q. Is the relation of those gentlemen to your company such as that they should have the best information upon this subject ?

A. I presume that they would ; yes, sir.

Q. Is there a published list of the officers and directors of that company ?

A. Yes, sir.

Q. Have you a copy here ?

A. No, I have not.

Q. How many directors are there ?

A. Nine.

Q What are their names ?

A. The list is printed in our annual report; I will have to name them from memory; they are, Charles F. Cutler, Theodore N. Vail, Alexander Cameron, S. R. W. Heath, Hugh Kinnard, Samuel Klotz, Charles A. Nichols; there are nine of them, and I have given you but seven; I think you would better let me send the printed list, so as to be absolutely correct.

(The following is a printed list of the directors and officers of the New York and New Jersey Telephone Company as furnished by the witness to the official reporter):

THE NEW YORK AND NEW JERSEY TELEPHONE COMPANY.

President :

Charles F. Cutler.

Vice President :

Alex. Cameron.

Secretary and Treasurer :

Joel C. Clark.

Executive Committee :

Charles F. Cutler, Theo. N. Vail,
Jos. P. Davis.

Directors :

Charles F. Cutler, New York, N. Y.
Alexander Cameron, Brooklyn, N. Y.
Morris F. Tyler, New Haven, Conn.
Theo. N. Vail, Boston, Mass.
Jos. P. Davis, New York, N. Y.
Chas. A. Nichols, Springfield, Mass.
S. R. W. Heath, Newark, N. J.
Hugh Kinnard, Newark, N. J.
Samuel Klotz, Newark, N. J.

General Manager :

W. D. Sargent.

Superintendent :

John C. Reilly.

Q. Mr. Sargent, what personally have you had to do in making any of the arrangements under which these Fire Department poles so called have been put up; whom have you seen upon the subject and when and where?

A. I have seen the Commissioners.

Q. Mention names?

A. Commissioners Partridge, Poillon and Ennis, and Chief Nevins.

Q. When first did you see either of these gentlemen?

A. I came here in charge of the Company in July, 1882, and I presume that we saw them within a month or two after I arrived.

Q. You have spoken of an arrangement; was it with you on behalf of the Company that that arrangement was made?

A. The arrangement was merely a verbal one.

Q. So you have already said: I want to find out who was the actor as representing your company?

A. Representing our company? the communications in regard to it were between Mr. Reilly and myself. I am the general manager of the company and Mr. Reilly is the superintendent, and he probably saw the Commissioners and so did I. I need not say "probably", because I know I did see them; and it was an arrangement verbal in every sense; that is, they gave us the permits and we put up the poles.

Q. Was there something happening at some time of which you speak as an "arrangement," or were there different transactions occurring from time to time which you embrace under that designation?

A. The arrangements were made from time to time as the Department required poles to be renewed or new poles to be put up.

Q. Mr. Sargent, I understood you to say in the earlier part of your examination that an arrangement was made from the beginning, and that it was under that arrangement that these so-called Fire Department poles had been put up down to now; is that the fact?

A. The arrangement was made simply as the occasion occurred. It was a verbal understanding; the Department

required certain poles to be put up and certain poles rebuilt, and we were asked to do the work and we did so with the understanding that we could place our wires on the poles, and we did it free of cost to the city.

Q. Was it you who acted for your company in making that arrangement?

A. Yes, sir; or in my absence Mr. Reilly.

Q. And when you or Mr. Reilly to your knowledge was negotiating these arrangements who was the other person—the person who assumed to represent the Fire Department?

A. We consulted with any one of the three gentlemen I have named; the Commissioners and Chief Nevins and Superintendent Watson.

Q. What Commissioner?

A. Either of the Commissioners—Partridge, Poillon and Ennis, whichever was in authority at the time. The location of the poles, of course, was usually left to the Superintendent of the Fire Alarm Telegraph, who is now Mr. Watson, and from his memorandums the permits were issued.

Q. And who before his time?

A. The Superintendent before him, I don't recall his name now, but the Superintendent of Telegraph and the Chief of the Fire Department located the poles, as near as I understand it.

Q. Whom do you mean by Chief of the Fire Department; do you mean Mr. Nevins?

A. Mr. Nevins.

Q. During all that time?

A. During all this period, yes, sir.

Q. Was there not a period during which you had difficulty with the Fire Department, leading to a suspension of the erection of poles?

A. The last poles that we erected for the Fire Department were those on Classon avenue, where we were served with an injunction, and that of course stopped our putting up any further poles for the Fire Department.

Q. Did the injunction stop any more poles than were ac-

trally enjoined ; did the injunction suspend your work altogether ?

A. We stopped the work entirely ; yes, sir.

Q. What I wish to ascertain is whether there was not a time when you had difficulty in obtaining these permits ; when the work was blocked through some trouble there ?

A. We never had any difficulty with the Fire Department.

Q. Was there ever difficulty with Commissioner Poillon ?

A. Oh, yes ; I had forgotten that.

Q. Explain that to the Committee ?

A. I do not know that I can recall that very fully ; the point at issue between the company and Commissioner Poillon was the ownership of the poles ; as we were putting up the poles at our own cost and expense we wanted to retain the ownership ; that Commissioner Poillon decided we could not do so ; that is, he refused to allow us to have any ownership in the poles, and insisted on the permits being issued to the Fire Department, and the ownership remaining in them, and our company finally conceded that point.

Q. When did that take place ?

A. That I could not recall without reference to correspondence ; it was some time before Commissioner Poillon's retirement, and I think he refers to it in his annual report.

Q. Have you not since made some different arrangement ?

A. No, sir ; we do just as we did then ; if the Fire Department ask us to put up poles, and furnish us with the permits, we do so ; the last time they asked us was to put up a large number of poles that would be of very little use to us, and in that case we decided to make a charge of two thousand dollars for putting them up.

Q. State that transaction fully ?

A. The Department asked us to put up about four hundred poles, and we made them a proposition agreeing to put them up for, say, two thousand dollars.

Q. What happened ?

A. The poles that we were to put up under that arrangement were the ones with regard to which we were served

with injunctions on Classon Avenue; a part of these poles.

Q. With which of the Commissioners took place this occurrence about your having five dollars or your demanding five dollars a pole for four hundred poles?

A. The proposition was for the location of four hundred poles, and I can show you my letter to them; that was printed at the time.

Q. I want to know the whole transaction without reference to your letter?

A. I can give it to you in better shape by referring to my letter.

Q. Is the letter that you have handed to me, with a memorandum of the poles required attached, the letter to which you have referred?

A. Yes, sir, that is the letter I refer to.

MR. PARSONS: The letter reads:

“BROOKLYN, September 30. 1886.

“HON. JOHN ENNIS,

“Commissioner Fire Department,

“Brooklyn, N. Y.

“DEAR SIR:

“Referring to the poles which your Department wish erected, a detailed statement of which is attached herewith, I desire to say that the cost of this work is estimated at \$4,250. We will erect all these poles for the sum of \$2,000, in consideration of our company having the privilege of placing their cross-arms and wires on these poles, such use not to limit or interfere with their use by the city.

“Please advise us if this will be satisfactory to your Department.

“Very respectfully,

“W. D. SARGENT,

“General Manager.”

MR. PARSONS: And then attached to the letter there is a list, by numbers, of poles, size and location.

Q. Do you mean to be understood that it was the Classon avenue injunction which stopped this arrangement?

A. Yes, sir ; that is, we began erecting the poles and the injunctions were served on us, and we desisted from further work.

Q. Does that mean then that the Department accepted your proposal ?

A. The Commissioners did not reply to that letter of ours. The permits were sent us, and we proceeded with the work the same as we had been doing theretofore.

Q. In other words, you made this proposal, and the answer to that was the permits which the Commissioner of the Fire Department sent to you ?

A. Yes, sir.

Q. Have you seen in the newspapers published statements about the relations of your company to the Fire Department ?

A. I have from time to time, yes, sir.

Q. Have you seen statements to the effect that there was a time towards the end of Commissioner Poillon's service when the erection of poles had largely ceased ?

A. No ; I don't recall that the erection of poles ceased at any particular time ; I think that we went right straight along as the exigencies of our business demanded it.

Q. Did you diminish the exigencies of your business at any time ?

A. No, sir ; our business has been pushing us right straight along, and we have had difficulty in keeping up with it. I was going to say that it was about the time or just before the passage of the underground law in 1884 that we were trying to arrange, through Mayor Low, for a contract with the city for the exclusive use of the city's poles ; and I am of the impression that Mayor Low sent in a communication to the Board of Aldermen, which was tabled or pigeon-holed by them, and which was never heard of since ; and afterwards the proposition was withdrawn by us, at the request of Mayor Low, on account of the passage of this underground law ; he did not deem it expedient to make that contract.

Q. Who were present at the conference with Mayor Low in regard to the contract with the City to which you have two or three time referred ?

A. I have a letter here from Mayor Low asking us to withdraw the proposition, and also Mr. Cutler's reply - Mr. Cutler, our president, had a conference with Mr. Low and the proposition was a verbal one so far as our record is concerned. But this letter will show that.

Q. Before I refer to the letter state, if you please, who were present at that first conference?

A. In relation to the contract for the exclusive right to the City's poles? You are referring now to that?

Q. State who were present at that time?

A. So far as my knowledge goes, Mr. Cutler and Mayor Low.

Q. Were you not present?

A. No, sir.

Q. Was there any conference, of which you have heard, or at which you were present, when Mayor Low or any other official of Brooklyn was present?

A. I cannot fix the time, but I had a conference with Commissioner Poillon on this subject, and I think also with Commissioner Partridge, who was then Commissioner of Police; but that was previous, as far as my recollection goes now, to the conference between our president and Mayor Low, to which those letters refer that I have just handed you.

MR. GREENE: I think you have misunderstood Mr. Parsons' question. He means to call your attention back to the earlier part of your testimony, in which you state that you had a conference or consultations with the Mayor of the City and other city officers, in which the arrangement was entered into that you have testified about, as to stringing wires on the city poles, or in which such an arrangement was proposed.

THE WITNESS: No, sir; that interview had relation to the enforcement of the underground law; whereas the conference to which these letters refers was one with regard to a contract between our company and the City, under which we were to have the exclusive right on all the City's poles, and we were to maintain them, and for which use we were to give the City certain telephone privileges in consideration therefor. That is an arrangement which we have

in a number of cities; we have it in the city of Elizabeth, New Jersey, for instance, and in the city of Jersey City; I don't recall that we have it in any other at the present time; but it is a very common thing for the telephone and telegraph companies to interchange facilities with the City Departments, because the number of wires that the City Departments require is limited, and it makes their wires expensive, so that the telephone and telegraph companies can afford to pay for the use of the right of way for their wires, and it also saves the duplication of poles. All those things were considered at the time of the arrangement with the Commissioners. At the time that we put up the poles for the Fire Department, it was considered that we would have to duplicate them, and it would be a saving in that way to us as well as to the City.

By MR. PARSONS: Before we go further with the subject, I wish to have made clear what you meant by a passage in the beginning of your testimony, which, if I understood you correctly, spoke of a conference with the city authorities of Brooklyn; I think you mentioned Mayor Low's name; and as to which I understood you to say that it was the result of a circular letter or general letter sent by Mayor Low to all of the telephone and telegraph companies of Brooklyn?

A. I have such a letter in my desk; it is a hektograph copy sent out by Mayor Low, inviting the telephone and telegraph companies to meet him on a certain day to confer in regard to the recent law that was passed. I could show you that letter.

Q. Who were present at that conference?

A. I can't recall from memory.

Q. Were you there?

A. I was there, yes.

Q. Was Mayor Low there?

A. Yes, sir.

Q. Were other authorities of Brooklyn there?

A. I presume that they were. I cannot name the individuals who were there, but that was the object of the call; I know that I responded to it.

Q. Can you name any other one than Mayor Low ?

A. I can not recall any one else besides the Commissioners of Police and Fire, Mr. Partridge and Mr. Poillon.

Q. What was the date of that conference as compared with the date of these letters which you have handed to me, and which were written one on July 30, 1884, and the other the answer, on July 31, of that same year ?

A. I don't recall the date of that letter at all, but I can send the letter itself to the Counsel.

Q. You mean the letter inviting the conference ?

A. Yes, sir ; that would fix the date ; my memory is not clear as to dates.

MR. PARSONS : I will read these two letters. The first one reads :

“ BROOKLYN, July 30, 1884.

“ CHARLES F. CUTLER, Esq.,

“ President N. Y. and New Jersey Telephone
“ Co.,

“ Dear Sir :

“ The Mayor desires me to inform you that in his opinion, it is inexpedient for the city now to complete the telephonic arrangement which he talked of with you, and to say that it may be as well for you to withdraw your proposition in that behalf.

“ Respectfully,

“ FRANKLIN ALLEN,

“ Secretary.”

MR. PARSONS : The reply to that letter reads :

“ BROOKLYN, July 31, 1884.

“ HON SETH LOW,

“ Mayor of Brooklyn.

“ DEAR SIR :

“ I have the honor to acknowledge the receipt of Mr. Allen's letter of 31st inst. informing us that you think it is 'inexpedient for the city now to complete the

telephonic arrangement' which has been discussed between us. I therefore desire to withdraw the verbal proposition which I made to you on behalf of our company in regard to the above matter.

"Very respectfully yours,

"CHARLES F. CUTLER,
President."

By MR. PARSONS: Q. What was that proposition?

A. It was a proposition on our part to furnish telephonic service to the City of Brooklyn in the various departments, in consideration of the exclusive right of way over all the poles belonging to the city.

Q. On any terms that were mentioned?

A. There were no special terms mentioned in money; we were to give them telephone service at various parts that were designated by the city officials. What that would have amounted to at the regular telephonic charges, I couldn't state from memory. As the letter states, it was a verbal proposition; that is, we were ready to put it in writing just as soon as the Mayor was ready for us.

By MR. GREENE: Q. Was that to be furnished without compensation?

A. Without further compensation than the right of way to their poles.

By MR. PARSONS: Has the proposition which is referred here in this correspondence anything to do with the conference which was invited by the circular letter of Mayor Cow?

A. No, it had nothing to do with it.

Q. Do these relate to two different transactions?

A. Two different transactions; yes, sir.

Q. Before we adjourn for the day I will ask you: is it a fact that you intend to leave the city on Thursday next?

A. I expect to leave Thursday afternoon; yes, sir.

Q. So that if we wish information requiring the consultation by you of the books at your office we must have it on Monday; is that so?

A. The other officers of the company are fully qualified

to give any information to the Committee, I should say, quite as well as I am.

BY MR. GREENE: Q. This arrangement about putting up poles for the use of the Fire Department and the use of your company conjointly, was commenced in what year?

A. In 1882, I believe.

Q. And that same policy has been continued on down?

A. Yes, sir.

Q. Down to the present time?

A. Yes, sir.

CHAIRMAN BACON: The hour of adjournment has arrived. All those witnesses subpoenaed for to-day, and who have not been called, will return on Monday next at 10 o'clock, without further notice.

Adjourned to Monday, March 14, 1887, at 10 A. M.

COMMON COUNCIL CHAMBER,

BROOKLYN, New York,

March 14, 1887.

Met pursuant to adjournment, all the parties being present as stated heretofore.

CHAIRMAN BACON: Gentlemen, you will now come to order. We are ready to proceed.

MR. PARSONS: I have received from Mr. Sargent, the first witness under examination on Saturday, a note enclosing the names of the officers and directors of his company, and also a copy of the letter of Mayor Low, about which I spoke. The list of officers and directors has already been printed in the minutes of the last hearing (p. 294). I will read the note from Mr. Sargent, and the letter to Mayor Low. Mr. Sargent's letter reads:

BROOKLYN, N. Y., March 12th, 1887.

"JOHN E. PARSONS, Esq.,

"111 Broadway, N. Y.

DEAR SIR:

"At your request, I send you herewith copy of the names of our officers and directors, together with a copy of Mayor Low's letter asking for a conference of all the companies interested in the law relating to placing wires underground.

"By referring to a copy of the law, I find that it was passed June 14th, 1884, and approved by the Governor June 24th.

"Very truly yours,

"W. D. SARGENT,

"General Manager."

MR. PARSONS : The Mayor's letter reads :

“ MAYOR'S OFFICE,
“ Brooklyn, N. Y., June 28, 1884.

“ GENTLEMEN,

“ In view of the law relating to placing telegraph and other wires underground, passed at the last session of the Legislature, I have the honor to invite you to send some representative to a conference with me of all the companies interested in the matter in Brooklyn, to be held in this office on Wednesday the 2d proximo, at 10 o'clock, A.M.

“ The object of the meeting is to confer as to the best method of complying with the spirit of the statute with the least inconvenience to the business of the public and of the companies concerned.

“ Respectfully yours,

“ SETH LOW,
“ Mayor.”

“ N. Y. & N. J. Telephone Co.”

MR. PARSONS : As Mr. Ray has not appeared, I will not keep the Committee waiting longer, and will ask Mayor Whitney to take the stand.

(The Counsel to the Corporation of the City of Brooklyn then addressed the Committee.)

MR. JENKS : Mr. Chairman.

THE CHAIRMAN : Mr. Jenks.

MR. JENKS : Mr. Chairman and gentlemen, before you swear the Mayor I ask the courtesy of the Committee to afford me an opportunity to make a motion, and to state the grounds on which I base the application. I have held my peace until this time, for the reason that the work of the Committee has been devoted toward County affairs. But the calling now of the chief officer of the city marks a departure from county investigation to an examination of affairs of the municipality, and therefore this seems a proper time that I should ask to make this

motion and to state the facts upon which I base the application.

I appear here as the Corporation Counsel of the City of Brooklyn; the chief law officer of the city, at the direct request and instance of the Mayor of the city and of the various other officials who are the heads of the several departments of the city government; and I make this application with all the gravity and with all the seriousness that this occasion demands.

Hitherto the witnesses who have been examined before this Committee have asked the privilege of being represented by counsel. That request has been met, not with a direct ruling on the part of the Committee, but rather by statements on the part of counsel that if the necessity should arise the question would then be disposed of.

It is necessary, gentlemen, that I should say a word, I think, as to the source of this investigation, in order that you may understand why this application is made.

A gentleman who represents in the Assembly a portion of the third city of the Union and of the second city of the State of New York, in his official character before the Legislature of the State has made statements to the effect that that there is crime, corruption, misdemeanor and recklessness in the administration of the city which he represents. Language can scarcely be made stronger than that which he utters. I am not here, gentlemen, to take exception to the remark; I am not here to quarrel with his position; but I only allude to this for the reason that these statements do not come from any irresponsible party, but from a man who is charged with the duty of representing the city in the Legislature of the State.

Not only has this been said, but the resolution which is your warrant of authority recites that there is a course of affairs in Brooklyn of recklessness, of dishonest administration in every department; and under that recital this Committee has been sent down here with the broad warrant of the Assembly to investigate the affairs of our municipality.

Now, sirs, this is a very serious thing to us—we who live here, and who have been brought up here, whose families

are here, whose reputation is here, such as it is. Every interest in the city is jeopardized even by the indictment of a responsible official. Not a man who owns a square foot of land in the city, accumulated by his toil and his care, can feel but that there is some taint upon his title inasmuch as this indictment of a responsible gentleman has been uttered in the Assembly.

The fair fame of the city, the reputation of its citizens, the honesty of the dominant political party, or the integrity of the men who have been selected to represent that party, all are at issue here; and therefore there can be no matter of more serious concern and of more gravity to us.

Now I make this motion that we may be represented by counsel; and I place it first upon the ground that we have a right to be so represented here.

They say to us, "but there is no charge; you are not on trial, therefore you are not entitled to the aid of counsel."

We answer to that this: "You state there are crimes and recklessness and misdemeanors in the city departments."

The proceeding, gentlemen, may be *in rem*; but this is virtually a trial *in personam*; for if there are crimes and misdemeanors, and if dishonesty stalks in the departments, some individuals in charge of the departments or in the departments are responsible therefor. The gibbet of public opinion will hang a man high on the cross-roads if these charges be sustained, no matter that incarceration cannot follow unless there be indictment from the Grand Jury.

So I say again, this is a grave matter to these men who hitherto have had standing and name and reputation and honor in this community—more serious than any mere incarceration could be.

Then I say this is really a trial; a trial in all that term means and all that it involves to men of reputation and of honor. It is a trial of the affairs of these officials. There is no provision of the constitution which has been more elastic and more generally applied than that provision which gives to every man the right to be represented by

lawyers or by counsel when his own acts are brought before *any* tribunal for review.

But, sirs, the gentlemen on the other side may say: "You are not on trial, you are mere witnesses under the decision in the McDonald case."

I answer to that, that there is a vast distinction between a man who is called upon the witness stand to give his testimony and his evidence, and if he be not a perjurer, passes scot free as soon as he has finished—a vast difference between that man and those men who are called upon the stand and whose official acts and whose personal character are put in issue.

The heads of departments, the officials of the city, are not mere witnesses. They are the men who are called to account here for the administration of affairs over which they have had charge; and therefore it seems that the distinction is broad and very clear, that such men, called here under your subpoena, are on a different footing from men who are mere witnesses, and who have nothing to do with the facts except to recite them, and then to step aside when their testimony is finished.

But, gentlemen, I put this application upon another ground, and that is upon the ground of the exercise of your discretion. The cardinal American principle is the principle of fair play; and I appeal to you, coming down here, not by the vote of any party, but by the virtually unanimous vote of the Assembly, that you should exercise the powers given you in the same spirit in which they are given; that you should accord to us the privilege which you have obtained for yourselves—to wit, the privilege of having lawyers to represent us here, inasmuch as you have lawyers to represent you. You, who are lawyers yourselves, have chosen this course. We, or some of us who are not lawyers, certainly are in as much need of aid as you can be.

Then there is another matter, gentlemen. The powers of the Legislature are limited, and the law puts it on the ground that they may investigate simply for the purposes of legislation; and your very resolution recites that the

purposes of this investigation are future legislation in the Legislature of the State.

Now, we believe in the principle of Home Rule. Men older than I have fought for it. Both parties have contended for it; and we believe that we have here the most perfect municipal government in the world. We value this thing—we treasure it; we believe in the right of the people to govern themselves in their own localities upon every local question.

Now, sirs, if you are to report with reference to legislation, and if you should report anything to be done by the Legislature, that will be for the purpose of taking away from us these rights which we believe we are entitled to—because we think we have honestly exercised them.

Therefore, gentlemen, the principle of Home Rule is on trial; and it is a broad principle and one which demands the fairest treatment at your hands, and I doubt not that it will receive it.

So that not only the city, not only the good name of the city, not only the administration of city affairs, not only the individuals in charge of the departments, but as well the principle which the City of Brooklyn has contended for and which she has won is at stake here in this proceeding, and we ask that you will afford us the fairest and fullest opportunity to come here to vindicate our belief and to show our characters, in order to demonstrate that we have not been recreant to our trust; that no half measures may do us injustice.

Now we ask counsel for this reason, gentlemen; we do not come here relying upon technicalities; we do not come here (even if we have the right to do so) seeking to evade the whole truth. But what we want *is* the *whole truth*, We want to have the whole story brought out, fair and clear and clean. If any man has been dishonest, if any man has done wrong, let us punish him. All good citizens say that. But we think, as a matter of right, that we are entitled to have the same force to help us to see that affairs are conducted according to the rules of evidence, to see that facts are brought out on both sides, in order that the Committee may return to the Legislature with a determina-

tion as broad as the powers under which they come down here.

I am not aware of an attempt or any desire to conceal anything. If there be I am not a party to it, and I never shall be. But at the same time I ask you to afford us this privilege in order that the whole story, the whole history may be brought out fairly and squarely, and if you grant our request, you will only be affording to us the privilege which you have taken for yourselves.

That is the length and breadth of the situation as it stands.

I make this application now for the reason that this is the proper time to make it, and I do not wish to wait until it seem necessary to ask for counsel, because that might be a confession that there was something to conceal; but it is made now before the most violent imagination can believe that any action is taken or any request made for the purpose of concealing anything.

Before a single word is uttered on municipal affairs, I make this application; and I charge you, gentlemen, to afford us fair play, and to afford us the opportunity to produce all the facts fairly and squarely in order that you may return, having done the work, not on political lines, but in the interest of the people and for the whole people on the broad grounds of public policy.

MR. PARSONS: I do not propose, Mr. Chairman and Gentlemen of the Committee, to make what may be called a reply to the statement or argument to which you have just listened from Mr. Jenks; and yet I am impressed with the belief that it would be unbecoming that nothing should be said in response by counsel for the Committee.

Mr. Jenks entirely misapprehends the situation. He neither comprehends the position of the Committee, nor of the counsel to the Committee; nor do I think does he comprehend correctly the interest which is in his charge.

Is this a trial? If it were, there would be two parties, and it would be the right of each to be represented by counsel. If it be a trial, who is the accused? Who is the accuser?

This is an investigation. It is a proceeding of that importance and of that necessity that the moment you deny the right of the Legislature to investigate, you permit crime and wrong-doing to run rampant without any opportunity to inform the legislative power either of the abuse or of the mode in which to meet it.

Mr. Jenks speaks about some person or persons concerned as "the other side." To whom does he allude? (Turning to the Corporation Counsel): To whom do you allude, Mr. Jenks? Do you allude to the counsel who are aiding this investigation? Do you allude to the Committee? Do you allude to the Legislature?

MR. JENKS: I used the term, having pointed out very carefully that this was in the nature of a trial; because officials were directly called as to their own official acts; and the result will be tantamount to a trial, so far as anything that is worth anything in this world is concerned.

MR. PARSONS: Still Mr. Jenks fails to inform the Committee, and those who are here and interested in this proceeding, of whom he speaks as "the other side."

MR. JENKS: I used the term purely in describing the course of law. It seems to me the better way would be to answer the broad proposition of my argument, rather than the technical use of my phraseology.

MR. PARSONS: I think that Mr. Jenks was true to his position and true to himself in describing some persons concerned here as "the other side." If *we* represent the other side, then it becomes pertinent to inquire, whom does Mr. Jenks represent? Because the side of which he speaks, (as opposed to the side represented by himself,) is trying to aid an investigation with a view of correcting the supposed abuses; and if Mr. Jenks puts himself and those for whom he speaks in opposition to that side, he is here not to aid but to thwart the investigation; and I think that neither he nor his constituents will desire to be put in that position.

And let me say on behalf of counsel conducting this inquiry, that not only to Mr. Jenks, but to every other citi-

men of Brooklyn, to every other member of this community, will the counsel of the Committee, and, as I believe, every member of the Committee, be grateful at all times for anything that will aid this investigation.

If Mr. Jenks desires that questions shall be addressed to members of the city government with a view of elucidating the truth, of ascertaining whether there is or is not occasion for reform of the city government, he will find that on the part of no one concerned will there ever be objection. And it is not now that for the first time are the counsel of the Committee called upon to state that we recognize it as the right of every person placed upon the stand to make any statement explanatory of his evidence or justificatory of his conduct, which is within the purview of the subjects to which his attention shall be called by the counsel of the Committee.

And with this right accorded to witnesses, with this right accorded to gentlemen, members of the city government and of the departments of the County of Kings—extended to them as individuals, where is the necessity and where the propriety of turning this proceeding into a trial? Because the moment that the Committee acquiesce in that idea, then most successfully will there have been put an end to this inquiry.

If it be true, and I have no reason to dispute it, that Mr. Jenks and his clients are interested in promoting this investigation, then let me say to him (and I have had much experience in such matters) that he can do nothing so directly opposed to the purpose which he avows as to turn this proceeding into a trial; which means indefinite prolongation, and no such result as we are all interested to accomplish. For what are we concerned about here? It is to promote good government; it is to correct supposed abuses; it is to discover crime, if crime exists; and we think that we have the right to expect that in the accomplishment of this purpose we shall have the aid of the Mayor of this city and of the Corporation Counsel of this city; and we think that it would be very unbecoming, for the first time in the history of legislative investigation, to turn a legislative inquiry into a trial,

which necessarily assumes that there is a criminal who has been accused and who is here to be condemned.

I have had some experience for many years in the prosecution of such investigations. I have heard suggestions of this kind made before. I believe that I am somewhat familiar with all the investigations of this kind which have taken place during the history of the State, and somewhat so with the investigations which have taken place under the direction of the general Government; and if the Committee shall do what the learned counsel for the Corporation asks—put the Mayor of this city in the attitude of an accused, of a person indicted of crime, and for that reason claiming the right to appear by counsel—it will be a departure from a course which has been invariably pursued, so far as I know, whenever such an inquiry has been instituted.

MR. JENKS: A single word, Mr. Chairman. Mr. Parsons in his own speech has exactly outlined my position, and the strongest position that I can take before the Committee. He states that the purpose of this investigation is to bring out the whole truth. Now I put it to the Committee, whether the whole truth can be better brought out by counsel appointed to conduct an investigation purely from a point of view which seeks to discover things from a certain standpoint, or whether the whole truth can be brought out by allowing to the various officials of the city, counsel, in order that under your rules and under your regulations, in conference with these individuals, and with these gentlemen who are called, they can bring out the whole story. If the point of the investigation is to obtain the whole truth, then I say that if you afford to these departments and to these individuals the right of being represented by men skillful enough in the law to know what their interests are, what is pertinent, and what is proper, and how to bring that out, then you have met the full purposes of the investigation, as I agree with my friend Mr. Parsons. That is the point.

(The Committee after consultation, all the members being present, announced its decision as follows:)

Chairman BACON: Gentlemen, the Committee are unanimously of the opinion that the motion should be denied, with the understanding, of course, that every witness can make any explanation that he may wish in the course of the examination, and that, if it be necessary, he may even return to the stand, after consulting with his counsel, to make such explanation.

The Chairman might wish to make some personal explanation with reference to the remarks of Mr. Jenks, but he does not think it wise to do so.

(The Mayor of the City of Brooklyn was then called to the stand.)

Daniel D. Whitney, being duly sworn as a witness, testifies as follows:

By MR. SHEPARD: Q. Mr. Mayor, you are the Mayor of the City of Brooklyn?

A. Yes, sir.

Q. And have been such, I believe, since the 1st of January, 1886?

A. Yes, sir.

Q. Mr. Mayor, when, after you took office, were changes in office first made in the City of Brooklyn under you?

Q. On the 1st of February.

Q. At that time I believe the heads of the chief departments of the city were appointed?

A. Yes, sir.

Q. And I think prior to that time the only material change there under your administration had been made in the change the of Civil Service Commissioners?

A. I had made the appointments of the Civil Service Commissioners.

Q. So that with one or two exceptions the constitution of the Civil Service Commission was entirely different from what it had been before?

A. I appointed new commissioners.

Q. In place of the old ones?

A. In place of the old ones.

Q. With one or two exceptions? One or two exceptions I think held over?

A. With one or two exceptions, yes, sir.

Q. The Civil Service Commissioners are officials, as I understand, serving without pay, and who serve entirely at the pleasure of the Mayor; are they not?

A. Yes, sir.

Q. And the Secretary of the Civil Service Commission is an appointee directly of the Mayor?

A. Yes, sir.

Q. And is the Assistant Secretary of the Mayor?

A. Well, sir, he is so denominated; but he devotes his entire services to the Civil Service Commission.

Q. That is to say the work of the Civil Service Commission is so large as that it requires all his time?

A. All his time; he is very busy.

Q. And the Secretary of the Civil Service Commission is Mr. Evangelides?

A. Yes, sir.

Q. And the office of the Civil Service Commission is a part of the office of the Mayor?

A. The adjoining room, yes, sir.

Q. So that the administration of the civil service law and of the regulations promulgated under that law by the Mayor is an administration peculiarly within the direction and control of the Mayor himself?

A. Yes, sir.

Q. And that is the claim, as I understand, of the civil service system in the City of Brooklyn—

A. Yes, sir.

Q. That the power is with the Mayor, and that the administration of it is with the Mayor through his appointed agents?

A. He has supervision over the departments of the city; that among the rest.

Q. But by reason of the office of the Civil Service Commission being part of the Mayor's office, that, I understand, is more peculiarly within the Mayor's immediate observation than almost any other department of the city?

A. No, sir ; not necessarily.

Q. Not necessarily ?

A. No, sir.

Q. The Civil Service regulations are part of the law of this city, under which its different departments are administered ?

A. Yes, sir.

Q. And I take it that your own office, Mr. Mayor, has steadily conformed to those regulations ?

A. We so intended to do.

Q. As part of the law under which the Mayor's office itself exists ?

A. Yes, sir.

Q. One of those regulations directs the publication at the early part of each year of what is known as the Civil List of the City of Brooklyn ?

A. Yes, sir.

Q. Such a Civil List has been published for the 1st of January, 1887 ?

A. Yes, sir.

Q. Prepared, I suppose, by the Secretary of the Civil Service Commission ?

A. It was.

Q. Do you remember, Mr. Mayor, whether a like Civil List was prepared for 1886 ?

A. I don't remember ; no, sir, I do not.

Q. I have here, Mr. Mayor, the Civil List, or a copy of it, for 1887, and also the Civil List for 1885 ; 1885 was the year prior to your taking office, I think, Mr. Mayor ?

A. Yes, sir.

Q. Do you know of any Civil List being published between these two ?

A. No ; I cannot say. I presume it was, but I am not positive.

Q. On reference to the Civil List of 1887 I observe that the number of municipal offices included in Schedule A is 208 ; on reference to the Civil List of 1885 I observe that the number of offices included in Schedule A is 108, being one hundred less than it is in the later Civil List. Do you

know, Mr. Mayor, what has been the nature of the increase—this large increase—in the Schedule A, part of the Civil List of the City of Brooklyn?

A. I suppose the necessity of the government required it. I know of no other reason.

Q. Are you familiar, Mr. Mayor, with the details at all of the increase of this force in Schedule A?

A. I know I assigned to the Civil List such as I thought, in my judgment, it was necessary to do in the interests of the city.

Q. By reference to your annual message of the 3d of January, 1887, I observe this statement: "I have, under the power conferred upon me, excepted but seventeen officers from the provisions of the law, four of which were positions duly created during the year;" do you remember, Mr. Mayor, whether that refers to Schedule A?

A. I think it does; yes, sir.

Q. And schedule A is the schedule in the Civil List of Brooklyn of the officers who are subject to the law itself as indicated by the Legislature, but who, under the provision of the law, are exempted from competitive examination?

A. Yes, sir.

Q. That is so?

A. Yes, sir.

Q. Excepting only that Schedule A does not include day laborers?

A. Yes, sir.

Q. Those, as I understand, are put into Schedule D, which is a third schedule of the Civil List?

A. Yes, sir.

Q. Then, referring, Mr. Mayor, to your message of 1887, which refers to an increase of Schedule A by seventeen officers, may I ask you what you understand is the explanation of the discrepancy between the number seventeen mentioned in your annual message, and the increase of one hundred in Schedule A, which is exhibited by the Civil List, bearing the same date as your message?

A. I did not go back to 1885; I had only reference to one year.

Q. Your message had reference to one year?

A. Yes, sir.

Q. And you mean, then, that the Civil Lists include a period of two years?

A. No, sir; only one.

Q. Only one year?

A. Only one.

Q. Then, perhaps, I do not understand still, Mr. Mayor; as I understand, your message of 1887 covers the whole period of your service from the time you took office, on the 1st day of January, 1886, down to the expiration of the year 1886?

A. Yes, sir.

Q. And if I understand right, the Civil List of Brooklyn, the last one now published, shows the state of the official service of the City of Brooklyn on the 1st day of January, 1887?

A. Yes, sir.

Q. Mr. Mayor, I still do not understand why it is that between the Civil List of 1885 and the Civil List of 1887 there is shown an increase of one hundred persons in Schedule A, whereas your message indicates only an increase of seventeen?

A. 1885 goes back two years; I didn't go back two years.

Q. That is what I asked you before; do you understand, Mr. Mayor, what is the difference between the seventeen assignments to Schedule A, which you mentioned in your message, and the increase of one hundred in Schedule A of the city of Brooklyn, bearing the same date as your message; does that refer to an increase of officers taking place in the year immediately preceding your incumbency?

A. I don't know whether it is a hundred or what it is; I only speak of my own acts during that year.

Q. Then you are not aware, Mr. Mayor, what the explanation of that may be?

A. I do not; no, sir.

Q. May I now refer to some details appearing in the Civil List; I observe under Schedule A, under the head of Department of Police and Excise, that there were fifty-seven positions in that department in Schedule A on the 1st

of January, 1887, whereas in the same department, in the schedule of two years prior to that there were only nine; do you know anything of that increase?

A. No, sir.

Q. And in examining the list of Schedule A for 1887, I observe that forty-four detectives appear in Schedule A as persons exempt from any competitive examination and appointed directly by the Police Commissioner, and to hold office at the pleasure of the Commissioner; are you personally cognizant, Mr. Mayor, of those appointments?

A. No, sir.

Q. Were you aware, Mr. Mayor, that forty four detectives, appointed by the Police Commissioner, had been assigned to Schedule A, whereas all of the patrolmen and all of the doormen of the police force, and messengers of the police force were within the competitive schedules?

A. I think they were all in the competitive examinations; all of them.

Q. And your view, Mr. Mayor, would be that the forty-four detective themselves ought to be in the competitive schedules?

A. I think they were.

Q. You think they were?

A. Yes, sir.

Q. Then it is possible that the Civil List is mistaken, I suppose, in that respect?

A. That I don't know.

Q. I observe in the Department of City Works the number of officers in Schedule A in 1885 was 22, and on the first of January, 1887, was 40, being nearly a doubling of that force. Are you personally familiar with the reasons that dictated that increase?

A. I do not know what caused the increase except this: when I was applied to designate the schedule in which these men were wanted, I placed those that were in a fiduciary capacity or places of trust in schedule A.

Q. May I read from your message, Mr. Mayor, and ask whether these were not the 17 officers who, so far as you have been aware, were included in schedule A, and if they were not all that you intended to add to schedule A, and I

will read from your message; the positions are as follows :
“ The Department of Finance, Searchers, 2; Department of Parks, Superintendent of Building, 1; Superintendent of Horticulture and Arbor Culture, 1; Superintendent of labor, 1; Inspector of Parks, 1; Pay-master and Disbursing Clerk, 1; Department of Law, Ordinance Clerk, 1; Department of City Works, Paymaster, 1; Tickler Clerk, 1; Assistant Superintendent of supplies, 1; Department of Fire, Captain of Fire boat, 1; Secretary, 1; Department of Arrears, Tickler Clerk, 1; Police Court Stenographers, 3. Total, 17? ”

A. I remember all those. I do not know whether there are any more or not.

Q. So far as you recollect, there were no others that you authorized to be transferred from the competitive schedule to the non-competitive schedule?

A. I certainly can't recollect; no, sir.

Q. Then if this large increase of 100, a doubling of schedule A, should have taken place during the year 1886, as shown by the records, it must have taken place, except as to those 17, entirely without your warrant and without your authority?

A. I don't know as I get at that question exactly.

MR. SHEPARD: The stenographer will read the question.

The question is read by the stenographer as follows:

Q. Then if this large increase of 100, a doubling of schedule A, should have taken place during the year 1886, as shown by the records, it must have taken place, except as to those 17, entirely without your warrant and without your authority?

A. All that was placed in schedule A had my signature and approval that I knew anything about.

Q. And any that didn't have your signature must have been placed there without your approval?

A. I don't know anything about it any more than what I assigned there.

Q. Now, going to the competitive schedule, I observe that the number of places within that competitive

schedule on the first of January, 1887, by the Civil List is shown to be 1797, and that in the Civil List for 1885 the number appears to be 1,553, showing an increase in places within schedule B of 244. Are you acquainted in detail or even generally with the reasons for the increase in the officers in the competitive schedule?

A. Except the natural increase of the city requiring more help; that is all I can account for it. Our city is growing rapidly, and we need more help in all the Departments.

Q. Do you think the increase of the city or the needs of the city in the year 1886 would explain the increase of 244 over 1553 officers in schedule B in the year 1886?

A. I don't know as to that.

Q. May I ask, Mr. Mayor, as to whether the needs of the city in that year would probably show a necessity for so large an increase as that in that one year?

A. The city is growing rapidly, and they need more help; I suppose they thought so.

By MR. GREENE: Q. Doesn't that really cover two years all the while?

A. Yes, sir; all the while.

MR. SHEPARD: We have that here; the record shows that. It is not in the Civil List, but as the Mayor doesn't know that; I prefer to take that separately.

THE WITNESS: That is one year before my time.

By MR. SHEPARD: Q. I observe the increase in the Police force between these two Civil Lists was from 824 to 864, being an increase of 40. That, I suppose, is hardly more than a proper increase in such a force during that time.

A. It is not enough. If we could only afford more we would put them on right away, but we can't raise the money. We want 100 more now to-day.

Q. I observe an increase in the Fire Department is from 304 in 1885 to 367 in 1887, being an increase of 63?

A. Yes, sir.

Q. That I suppose is not far from a proper increase?

A. It is none too many.

Q. None too many?

A. No, sir, hardly enough.

Q. So that taking the increase in the police force and the increase in the fire force, which amount to about 110, we have left as the increase in the City of Brooklyn, between these two Civil Lists about 134, being an increase of 134 over 400 or 500 places, which were outside of the police force, and the fire force of 1885, being an increase of 20 to 25 per cent. May I ask you, Mr. Mayor, whether in your judgement if we were to take the year 1886 alone that increase was a warrantable increase, warranted by the growth of the City, and the new necessities of the City?

A. If it was all in one year.

Q. If it was all in one year?

A. It was no more than is necessary for the proper protection of the City, if we could afford to pay it.

Q. What I desire to know is whether in your judgment as the Chief Magistrate of the City the change in one year is a change that would necessitate so large a proportional increase of the force outside of policemen and outside of firemen for one year?

A. You are assuming all to be in one year.

Q. I am assuming it to be in one year?

A. I do not know how I can answer that better than to say that our force is none too large for the City in either the case of the firemen or the policemen. In fact we haven't enough policemen here now.

Q. Outside of firemen and policemen?

A. Well, what positions do you speak of outside?

Q. Positions in the City Works and in the Parks, and all positions except policemen and firemen?

A. Well, no, I don't think it is any too large.

Q. Do you think that was a suitable increase for one year?

A. Well, you have it for two years, from 1885 to 1887, as I understand it.

Q. Assuming that of this increase all but an insignificant portion of it was in the year 1886, may I ask you whether

in your judgment such a proportional increase was a fair increase, considering the growth of the City ?

A. Well, I hardly know how to answer that. The City is growing rapidly and we have to have more force in every department continually.

Q. Do you think during this year of the growth of the City, growing as rapidly as it does now, that it would be necessary to make as large an increase of force as appears to have been made between the dates of these two civil lists ?

A. Well, I don't think we have got any too many men in our employ.

Q. The question is, whether upon the growth of the city as it is now growing, such a proportional increase of force in the employ of the City will be necessary from year to year as appears to have been necessary between the dates of these two civil lists.

A. It may not be necessary every year to increase that amount.

Q. But at about that rate, do you think ?

A. Perhaps we didn't have enough at sometime and we had to fill up.

Q. Was it your judgment when you came into the office that the force in the employ of the City of Brooklyn, outside of the Police and Fire Department, was inadequate to the service of the city ?

A. I had no judgment, I think. I don't know how many there was in the employ of the City of Brooklyn then.

Q. You didn't get the impression upon coming into the office on the first of January, 1886, that the employees of the city, outside of these two departments, were insufficient for the necessities of the city ?

A. No, sir ; I didn't get it then.

Q. So that such an increase of force, as has taken place during 1886 must have taken place by reason of the growth of the city or changes in its circumstances that arose after the first of January, 1886 ?

A. I suppose so ; yes, sir.

Q. I observe in schedule D, which is the schedule of day laborers, that the number in the employ of the City as

shown by the civil list of 1885, was 255, and the number as shown by the civil list of 1887 is 444 ; do you think that that was a suitable increase, having regard simply to the growth of the City between the dates of these two civil lists ?

A. They were not constantly in the employ of the City, at some seasons of the year there is a larger number of laborers than at other seasons.

Q. But that was the case in 1885, was it not.

A. Yes, sir.

Q. So that each of these civil lists shows the entire number of the employees of the City in Schedule D for the whole year without reference to the length of time they were employed ?

A. Yes, sir.

Q. May I ask you whether in your judgment there was any change in the condition of the City that rendered necessary the increase in this particular schedule between the dates of these two lists—from 255 to 444 ?

A. The growth of the city requires more help.

Q. Did you think the growth of the city in 1886 required such an increase ?

A. Well, I presume the departments so thought that employed them.

Q. I will ask you whether this was done upon consultation with you—this increase of force ?

A. No, sir ; I had nothing to do with the appointment of laborers.

Q. May I ask you, Mr. Mayor, the same question as to schedule B, whether outside of the fire department and police department the large apparent increase in the force in the employ of the City was made upon consultation with you ?

A. No, sir.

Q. It was not ?

A. No, sir.

Q. So that the information as to this increase which comes to you, comes to you really for the first time from the civil list, which is published under the direction of the Civil Service Commission ?

A. Chiefly that way ; and I knew of some appointments that were made. Sometimes they wanted me to assign them in the grade or schedule. But I don't know the details of appointments of the various employees of the city.

Q. Has there been any change in the condition of the Parks of Brooklyn requiring a material increase in the force regularly employed in those parks : I don't mean laborers, but everybody except laborers, during the year you have been there ?

A. I don't know as there is any special reason for the increase.

Q. I observe from Schedule B, the sub-division headed "Department of Parks," that between the dates of these two civil lists the number of employees has increased from 58 in the first civil list to 87 in the second civil list, being an increase of about 66 2-3 per cent ?

A. Does that include the police of the park ?

Q. No ; it includes the park-keepers ?

Q. Well, that was the police. I presume we have got more keepers than we had.

Q. Have the parks of the city been enlarged at all ?

A. No, sir.

Q. Are the necessities of the parks any different now in 1887 from what they were in 1885 ?

A. They needed some more keepers badly. Things were going on in those parks that required a double force.

Q. What was the effect when you took office, as far as the parks were concerned—they were under the police ?

A. Yes, sir. They were called keepers, but they were really policemen.

Q. And it was necessary to make the increase ?

A. Yes, sir.

Q. I observe in your message the following passage : " I am not fully satisfied with the relations of the city and the Inebriates' Home. We contributed this year \$4,402.50 towards its support and maintenance from the Excise Fund, while it is free from the direction or control of or responsible to the municipal authorities." That represented your

judgment as the result of your year's knowledge of the Inebriates' Home?

A. Yes, sir.

Q. Would you please state to the Company what you understand to be the responsibility of the Inebriates' Home, and its constitution?

A. It was established by an act of the Legislature and without any reference to the City of Brooklyn. They report to the Legislature. The city paying them a large amount of money, are not authorized to examine their affairs, although they are permitted to; they allow us to. I have been there myself in person; but they are not responsible to the city, yet they receive a large proportion of their funds from the city. I think the city ought to have some more control over it than they do.

Q. As I understand it, the city government over which you preside has no relation whatever to the Inebriates' Home except that a large amount of money is drawn from the city by that home?

A. That is all.

Q. And in whom is vested, as you understand it, the primary control of the Inebriates' Home?

A. The trustees appointed by the Legislature.

Q. I think they are Mr. Herman and Mr. Thomas?

A. Those are two of them.

Q. Do you happen to remember who the others are?

A. No, sir; I don't remember.

Q. Are they appointed by law?

A. By an Act of the Legislature.

Q. I mean were they appointed by an Act of the Legislature designating the trustees by name?

A. Yes, sir.

Q. So that so far as the Inebriates' Home is concerned it is a local institution but really controlled from Albany, and over which the municipal authorities of Brooklyn have substantially no control?

A. Yes, sir; that is it.

Q. Do I understand the contribution of money made to the Inebriates Home from the Excise Fund is a contribution over which the city itself has no control?

A. Not any.

Q. Can they control the amount?

A. No, sir. We have to pay 15 per cent. of the Excise Fund, by Act of the Legislature.

Q. The payments to the Inebriates' Home are payments which do not depend at all upon the amount of work the Inebriates' Home does?

A. It does not make any difference what they do.

Q. And if the number of inmates in that home were to be reduced 50 per cent., the money coming to their hands to spend would be precisely the same?

A. Yes, sir; precisely.

Q. Are you aware of any material surplus being left over at any time from the funds placed to the Inebriates' Home?

A. I can only tell you what Mr. Herman told me when I went down there.

Q. Very well.

A. He said they did not need so much money as they were receiving from the city, that they had a large tract of land all paid for and good buildings on it, and a fund on hand invested of \$40,000, and they did not need the money or so much money.

Q. May I ask you as to the Truants' Home. That is a home in which truant children are placed by the city?

A. Yes, sir.

Q. Who are the directors of that?

A. The Common Council control that, I think.

Q. They appoint the superintendent?

A. Yes, sir.

Q. Are the reports of the Truants' Home, so far as they are needed to be made, are made to the Common Council?

A. Yes, sir.

Q. And the vouchers for payment and the entire control or direction is lodged directly with the Common Council?

A. A committee of that Board.

Q. A committee of the Board of Common Council?

A. Yes, sir.

Q. The Truants' Home, as I understand it, is that under the control or direction of any part of the Executive Government of the City of Brooklyn?

A. No, sir.

Q. So that you could not, even if you would, interfere in any way with the management of that Truants' Home?

A. Except that I can veto a resolution passed by the Common Council.

Q. But except as you exercise that quasi-legislative power you have no right to interfere with the administration of the Truant's Home?

A. That is as I understand it.

Q. In your judgment, Mr. Mayor, if I may ask, both as to the Inebriate's Home and the Truants' Home, would it not be more agreeable to the general nature and general frame work of the administration of the City of Brooklyn under its home rule administration, that they should be under the direction of responsible executive departments which are themselves under the control of the Mayor?

A. Yes, sir.

Q. As to both of those institutions?

A. Yes, sir; and I have so recommended.

Q. I notice here your recommendation in your message in reference to the Department of Audit. That is a large department presided over by the Auditor himself, is it not?

A. Yes, sir.

Q. And having employees, perhaps twenty in number?

A. I don't know how many.

Q. What responsible work does the Auditor of the City of Brooklyn, or does his office do?

A. They audit the accounts of the city largely.

Q. That is really a clerical work, is it not, the examination of vouchers that are presented. Hardly more than that?

A. Well, it is both clerical and an examination—both is their duty.

Q. The clerical work of comparing the vouchers and the examination of the vouchers themselves?

A. Yes, sir.

Q. And that is substantially all that the Audit Department does?

A. Well, it audits the bills that are presented and which go into their office.

Q. Under the law their audit, verified by the official signature in that department, is necessary to the payment of any warrant by the city of Brooklyn?

A. Yes, sir; it must have that first.

Q. Is it not a fact the function of the Auditor of the City of Brooklyn is really a function to protect the Mayor or to protect the Comptroller in the payments they authorize to be made?

A. Yes, sir; as I understand it.

Q. Then I will ask you whether the Audit Department ought not to be really a department directly under the control and supervision of the Mayor himself instead of being an independent department, as it now is?

A. Well, that might be better. But if a man does his duty properly, I don't know as it makes any material difference.

Q. Would it not be more agreeable to the general constitution of the City of Brooklyn, under which it is intended to vest in the Mayor the primary, and, as far as possible, the sole responsible control, to put the Audit Department into a branch of the Mayor's office itself?

A. Well, it has been thought that as a branch of the Comptroller's office it would be best.

Q. Either one or the other would be better than the present condition, would it not?

A. Well, we have talked that matter over very frequently. I rather think it would myself.

Q. Would you give to the Committee, please, your understanding of the arrangement under which the wires of private corporations, either telephone companies or electric light companies, were placed upon the poles belonging to the city of Brooklyn?

A. Well, I can only refer you to a contract made some years ago by the city authorities that then were

Q. The contract made under Mayor Low's administration?

A. Yes, sir, previous to me, and which has been carried out under my administration just as that contract was made.

Q. Since that contract was made, Mr. Mayor, has there

not been a change in the laws of the State relating to the placing of wires on poles or overground?

A. You speak of the Subway Commission?

Q. The Subway law?

A. Yes, sir.

Q. So that, so far as private corporations had arrangements with the City of Brooklyn, by which they might place their wires on poles or over ground, has not that right, or ought not that right, to have been seriously limited by the Act of the Legislature which prohibited thereafter the placing of wires over ground?

A. They excepted the Fire Department.

Q. They excepted the Fire Department?

A. Yes, sir; they had the right to erect poles for their boxes.

Q. So that, in substance, the Fire Department under these laws prohibiting the placing of wires over ground, has for municipal purposes the right to erect poles and place wires above ground?

A. Yes, sir.

Q. Has the Police Department the same right?

A. Yes, sir; I think both the Police and Fire Departments.

Q. But at any rate the two municipal departments of Brooklyn have that right for municipal purposes?

A. Yes, sir.

Q. And the same reason does not hold for enabling the private proprietors of telephone wires or of electric wires to place their wires over ground?

A. They had to get the permission of the Subway Commission.

Q. Then, if I understand aright, without the permission of the Subway Commission the placing of any private wires by the electric light companies or by telephone companies over ground is without warrant of law?

A. Yes, sir.

Q. And it is without warrant of law, is it not, even if those wires were placed upon the fire department poles or the police department poles?

A. Well, now, that would be qualified. The fire depart-

ment had the right to erect poles, and in doing that they could give permission to telephone companies to put their wires there, as I understand it.

Q. Do you think it is agreeable to the policy laid down by the acts of 1884 and 1885 in reference to the placing of wires under ground, that the wires of private corporations should be placed thereafter upon poles erected simply for municipal purposes by the city of Brooklyn?

A. It was done to save expense to the city. We got the poles up for nothing by giving them that privilege.

Q. Is it not the fact that poles that would be suitable to hold the wires necessary for the use of the fire and police departments will be very much larger and very much more cumbersome and obstructive to the streets if they are also to hold a large number of private wires of telephone and electric light companies?

A. No doubt they would be larger.

Q. Will not the increase in their size and perhaps the increase in their number which will go along with the increase of the electric light and telephone service, be in substance an evasion or violation of the law which intended that all wires should be kept underground except so far as they were permitted by the Subway Commission to be placed over-ground?

A. That was done by the Fire Department. They wanted to establish their alarm boxes, and they could not do it without the poles, and they got the telephone companies to put them up by giving them that permission.

Q. Is it not a fact that so far as these wires which the Subway Commission does not permit to be placed over-ground and so far as they have been placed on municipal poles since these Acts of the Legislature, has it not been a substantial evasion or violation of the law?

A. Well, I don't know hardly what reply to make to that.

Q. In your judgment has that been executing the intention of those Acts of the Legislature?

A. I think it was, yes, sir.

Q. You think it did execute the intention of the Legislature?

A. Yes, sir.

Q. Do you know to what extent the electric light wires are placed upon the poles of the City of Brooklyn?

A. They are put upon none of the city poles, not one, as I am informed by the Department that there are not any electric wires upon the city poles anywhere.

Q. Are there not electric lights upon any poles also used by the city?

A. I don't know.

Q. It is a fact that the telephone wires to a large extent rest upon poles belonging to the City of Brooklyn?

A. Yes, sir.

Q. And that they have been placed there since the enactment of these laws by the Legislature?

A. Yes sir; this year.

Q. And that they have been placed there without the permission of the Subway Commission as to those wires?

A. Well, I don't know as to that. I can't answer.

Q. If that be so, that those wires have been placed there without the consent of the Subway Commission, has not that been an evasion or violation of the law?

A. If they violated the law it is an evasion of the law.

Q. If they have placed the wires there without the consent of the Subway Commission?

A. I do not know as regards the wires, but I understand they have no right to erect poles without the permission of the Subway Commission.

Q. Does not the same reason extend to the wires as to the poles?

A. I don't know what the law is on that subject.

Q. The more wires there are the larger the poles will need to be?

A. I understand the poles cannot be erected by any private corporation without the permission of the Subway Commission.

Q. Do you as Mayor distinguish between the erection of poles in the first instance and then the placing of wires on the poles after the poles are erected?

A. I don't know what the law is on that.

Q. Would you distinguish between them?

A. If the law only said poles that would apply to poles. If it said wires that would be different. I don't know what the law might be on that subject. I never looked it up or made any inquiry.

Q. Since your term of office commenced there were, as I understand, material and indeed almost complete changes in the responsible places at the heads of the different departments?

A. Yes, sir.

Q. And to some extent there has been changes under this heads?

A. Yes, sir.

Q. That is to say, they have changed their deputies, those holding confidential relations with them?

A. Yes, sir.

Q. Are you aware of changes very material in amount in places within the competitive schedules, in places that were not positions of deputation or of confidence, made by the heads of departments acting under you?

A. I have no knowledge of the number; no, sir. I don't know whether it is large or small.

Q. Have you no impression as to the number of changes that have been made in those competitive positions?

A. I couldn't tell you the number indeed. I don't know.

Q. Is it large or small?

A. Well, I really can't answer that question?

Q. Refreshing your recollection may I not ask, Mr. Mayor, whether the changes in those places in your one year of office—that is, from the first of January, 1886, to the first of January, 1887, in the competitive positions, have not been nearly 200?

A. I really don't know the number, sir.

Q. Have you been advised from time to time of those changes that were made?

A. Not altogether. Sometimes I have known of the changes. Not nearly all.

Q. Have you been consulted in reference to those changes to any considerable extent?

A. No, sir.

Q. So as to those matters your subordinates acting as the heads of these departments have done what in their judgment seemed best as to making those changes?

A. Yes, sir.

Q. And if the changes have been very large, being a very large proportion of all the places in the competitive schedules, that is a matter that has not been drawn to our attention.

A. No, sir.

Q. And is a matter in which you have in no way participated?

A. No, sir.

Q. The Civil Service Regulation of Brooklyn, Regulation 32, provides as follows: "No recommendation or question under the authority of these Regulations shall relate to the political opinions or affiliations of any person whatever; neither shall political opinions be discovered or considered by the Commission in their examination, or considered by the appointing officer in determining his selection among candidates certified for appointment." That Regulation, I take it, you are familiar with?

A. I believe there is such a one.

Q. And I observe in your message you say, under the head of Civil Service Commission, "The various departments have followed both the spirit and the letter of the Civil Service law whenever its provisions have applied."

A. I suppose so.

Q. And that is your understanding as to what the heads of your departments have done since you have been Mayor of the City of Brooklyn?

A. Yes, sir.

Q. That is to say that they have followed both the spirit and the letter of the Civil Service Law whenever its provisions have applied?

A. That was their duty.

Q. And that you understand them to have done?

A. I don't think the contrary. I presume they have. I don't know anything to the contrary.

Q. Will you not give to the Committee your best judgment as to whether your subordinates, the heads of these

departments, have, to use the language of your message, "Followed both the spirit and the letter of the Civil Service Law whenever its provisions have applied." ?

A. Well, I can only say in general that I presume they have obeyed the law.

Q. Have you had any impression that any of your subordinates, being at the heads of departments, have not followed the spirit and the letter of the Civil Service Law in some cases where its provisions have applied ?

A. No, sir, I don't know that.

Q. Have you had any impression of that kind ?

A. No, sir.

Q. No impression of that kind ?

A. No, sir.

Q. Then, if I understand you aright, your best impression is that all the heads of departments, the subordinates under you, have since you have been Mayor followed both the spirit and the letter of the Civil Service Law whenever its provisions applied ?

A. I presume they have obeyed the law. I don't know anything to the contrary. I have no doubt but if they could appoint a democrat and obey the law they would prefer that to a republican. I know I should, and I guess they would.

Q. Your own judgment is that as a general matter of appointment, wherever you can appoint an official of your own party you would do so, and you would advise your subordinates, as the heads of these departments, to do so ?

A. Everything else being equal, yes, sir,

Q. So referring you to the language of the Regulation No. 32, may I ask you whether this places in any way a limitation upon the duty of the Mayor and a limitation upon the duty of his subordinates as to the appointments—that regulation reads as follows, or a portion of it : "Neither shall political opinions be discovered or considered by the Commission in their examinations, or considered by the appointing officer in determining his selection among candidates certified for appointment."

A. I presume they have carried out the law as far as I know.

Q. Have they all, in your opinion, carried out that partic-

ular portion of the law which says they shall not consider political opinions in making their selection from among the candidates certified for appointment?

A. I can't answer that.

Q. Have you any impression as to that?

A. I have no impression one way or the other; I presume they have obeyed the law; I have advised them to do so.

Q. May I ask your judgment as to whether, when the law says that upon a certification coming from the eligible list of three men, one of whom the head of your department is to choose, that he shall not consider political opinions in determining his selection from among those candidates, whether in your judgment that places upon an honorable officer endeavoring to abide by the law any limitation upon his preference for the members of his own political party?

A. Well, as I said before, I suppose they would give a preference to their own party, everything else being equal.

Q. But is everything else equal when the law says that in appointing those within the competitive schedules they shall not refer in any way to the political opinions of the men they choose?

A. It is very difficult to keep their mind off that fact; I don't know how they could do it.

Q. So far as the letter and the spirit of this law is concerned, the intention of the law has been that in appointing men from these competitive lists, political opinion should not be considered; is not that so?

A. Yes, sir.

Q. So that if political opinions have been considered, whether intentionally by the officer, or unwittingly, and because he could not keep his mind off from it, in either case there has been a substantial violation of the spirit and letter of this law?

A. If he has violated the law certainly there was.

Q. May I ask you directly the question whether in selecting or choosing from among candidates certified for selection from the eligible lists you have any impression gathered by you from your discharge of your duties as

chief magistrate, that political opinions have been pretty regularly and constantly considered by the officers in making those selections?

A. I have no knowledge of anything of the kind.

Q. Have you an impression about that?

A. No, I don't know that I have.

Q. Would you consider that the head of any department, having certified to him three men, for instance, for the position of policemen, three men from whom he must choose one, and the law says to him that he shall not consider political matters in making that choice, would you consider that he performed his duty in invariably choosing a democrat if he were a democrat, or a republican if he were a republican?

A. No, I should not think he did.

Q. That would really be a violation of his duty under this law?

A. Yes, sir.

Q. Do you consider this law as obligatory upon yourself and upon your subordinates as any part of the law under which Brooklyn exists?

A. Yes, sir.

Q. And the oaths of office which yourself and subordinates have taken, are oaths of office relating just as much to the obligation imposed by these regulations as to any other part of your obligation?

A. Just the same.

Q. Then I understand you again to say that you have no impression as the result of your incumbency of office since the first of January, 1886, whether your subordinates have or have not always or almost always, so nearly always as to make the rule, carefully chosen men of your own party in preference to men of any other party?

A. I have not sufficient knowledge to answer that question.

Q. But to the impression, have you not an impression as to that?

A. No, I don't know as I can say I have positively.

Q. In examining the Third Annual Report of the Civil Service Commission of the City of Brooklyn and looking

at the appendix behind which is a table of eligible lists, I observe that after making the appointment of veterans, the soldiers or sailors provided by the law, that the men are not appointed in the order in which they stand upon the eligible lists, to a very large extent. Did you know that was the fact?

A. I alwys understood that all veterans were appointed first of all, no matter what their rating was, providing they were up to 70.

Q. I mean striking out the veterans; they of course are appointed under the Act of the Legislature; but leaving them out are you aware that the appointments from these eligible lists have not followed the order of the eligible lists themselves?

A. No; I don't know as to that.

Q. I observe in almost every case where there are several names on the eligible lists, that there will be vacancies here and there frequently where men standing in the order for appointment have not been appointed. Were you aware of that?

A. I think sometimes they were; I presume they were.

Q. Will you not give to the Committee, Mr. Mayor, your explanation of this fact which appears upon this report made to yourself, that men have not been chosen from the eligible lists in the order in which they stood upon those eligible lists?

A. I suppose there was some personal objections that the Departments had to them. When three men's names are sent in they select the one they prefer. Sometimes there are personal reasons, nothing to do with politics. I have known cases where there have been objections to people but not on account of any politics, but for some other reason they didn't want them.

Q. Is that as full an explanation as you have in mind now?

A. Well, yes, I think it is.

Q. Do you know or have you in mind what is the manner in which the head of a department desiring to appoint a man on the eligible list who has political recommendations to him, but who stands a considerable distance down

the eligible list, can make such appointment of men so recommended to him for political reasons ?

A. I suppose if he had the three names he could select which one he pleased of the three sent in.

Q. If one of those three happened to be a man who was recommended to him for political reasons, he cou'd choose that man ?

A. Yes, sir.

Q. And he could reject the other two men without there being any reasons, so far as the regulations of the law, against the men ?

A. He could take either of the three.

Q. He has the technical right ?

A. Yes, sir.

Q. And then as to the men who are certified below the first three, he can repeatedly reject a man against whom there is no reason except that he has no political recommendation, and nothing to prevent him making the appointment of men who are recommended politically ?

A. The other two must go in the next time. If you send three names in and he takes one, then those two and one more will make the next list.

Q. Is it not the law that if three men are certified, and he chooses number three, the next certificate will be of numbers one, two and four ?

A. Yes, sir.

Q. And he can then choose number four ?

A. Yes, sir.

Q. But as the two men have been certified twice and have been rejected as they would have been in that case, is it not the law that they cannot be certified to him again ?

A. I believe it is.

Q. So that the next time he can simply take, having selected three and four, he would have certified to him five, six and seven ?

A. Well, I believe that is the law.

Q. And then he can choose number six ?

A. Yes, sir.

Q. So that if numbers three, four and six are men who have political strength with him or political recommenda-

tions, he can in that way appoint those men, using the forms of law?

A. If he complies with the law.

Q. That is using the technical form of law?

A. Yes, sir.

Q. In that way by rejecting men on the list, where the officer desires to reach a name on the list that has political strength he can accomplish that purpose under the forms of law by this system of rejection?

A. I suppose he can.

Q. May I ask you whether in your judgment a public officer who does that complies with the law which he has sworn to obey and which has told him that in making this choice he shall not consider the political opinions of the persons certified to him from the eligible lists?

A. I suppose he thinks he has complied with the law.

Q. But it is your opinion that I should like to have upon that question?

A. Perhaps the spirit of the law was not fully carried out.

Q. Was the letter of the law carried out when the letter of the law said to him that he should not consider the political opinions of men certified to him from the eligible lists?

A. He could hardly keep that fact out of his mind, as I said before. We would always have it in mind.

Q. It would be unconscious you think, perhaps?

A. He would comply with the spirit of the law.

Q. Supposing in those cases the men that he desired to appoint had as their vouchers, of which there must be not more than five or less than three, three or four or five men, active and powerful in the politics of the party to which that head of the department belongs, and in making that appointment he was in that way decimating the list so as to make the selection of those having those recommendations, do you think he would have done it unconsciously and without any intention of violating the law which says that he must not consider political opinions?

A. I hardly think he would have been unconscious of it.

Q. When a public officer, sworn to obey the law, is conscious that he is doing that which the law has told him not to do, is not that a direct violation of the spirit and letter of the law?

A. I don't know that they have done that. If it is a violation of the spirit and the letter of the law they would violate it.

Q. That is as much a violation of the duty of the officers as if he had violated any other law relating to the administration of his office?

A. I suppose so.

Q. Just as much a breach of his sworn duty?

A. According to the reading.

Q. May I ask what, in your judgment, is the intention of the Civil Service law, so far as it relates to the constitution of these eligible lists; I mean upon the point whether the comparative fitness of the candidates was not rather to be considered as the rule of appointment?

A. I presume that was the law.

Q. Is it not the intention of the law that all the citizens of the City of Brooklyn, in competing for these places, should be upon an equality, except so far as their relative fitness to discharge the duty of the particular position is concerned?

A. Yes, sir; that is the law.

Q. If that is not carried out then, there really is an evasion or violation of the spirit of the law?

A. Well, I presume it would be; yes, sir.

Q. And is it your impression that that has not happened under these subordinates of yours who have been the heads of the great departments of the City of Brooklyn?

A. I have no knowledge of it being violated.

Q. But is it your impression that that has not been done?

A. I never have considered it particularly one way or the other; that was not my business particularly. The heads of the departments made the appointments, and I supposed they complied with the law in doing so. No one has ever said to me that they have not.

Q. Is not the Mayor of the City made by the Civil Service Law and by the Regulations peculiarly the source of administration of this law—is it not really lodged with him and with appointees whom he can remove and appoint at pleasure?

A. The same as all other appointments.

Q. Let us see in reference to the other heads. You cannot remove the Commissioner of Police or of the Health Department—

MR. GREENE: I do not want to break in on your examination. Mr. Shepard, but I will suggest that we are getting no facts; you are getting simply the opinion of the Mayor and his construction of the Civil Service Law; you are not asking for any fact whether there was any disobedience. It seems to me that we are all supposed to know what the Civil Service Law is and what the rules are. The rules are part of the law by the authority given to make the rules. I think the hypothetical questions do not aid the Committee very much in ascertaining the things that are required. That is my individual opinion; whether the Committee will concur I do not know.

MR. SHEPARD: If Judge Greene will permit me, the course of my examination has been determined by the object of getting from what I supposed to be the original source of information, as to the manner in which both the spirit and letter of this law have been kept. I had supposed the Mayor was the original source of information upon that point. Still I shall defer to your judgment on that matter.

BY MR. SHEPARD: Q. Mr. Mayor, I should like an answer now to the question I put to you which I will ask the stenographer to read.

(The stenographer read the question as follows: "Is not the Mayor of the city made by the Civil Service Law and by the Regulations peculiarly the source of administrations of this law—is it not really lodged with him and with appointees whom he can remove and appoint at pleasure?")

A. I say the same as the other departments.

Q. If it be shown to you that any head of department, your subordinate, has made his selections as a matter of habit from these competitive schedules for political reasons, excluding the men standing in the order and entitled upon their order to appointment, would you consider it as an offense?

A. If there was a charge made I should look into it as a matter of course.

Q. And if it were proved you would consider it an offense?

A. I would do my duty in the matter.

Q. But whether you would consider it an offense you are not prepared to say now?

A. When that comes up I shall decide that.

BY MR. GREENE: While counsel are waiting I would like to ask a question, Mr. Mayor. Is it not your understanding that the law in reference to putting the wires underground was passed in the winter of 1884?

A. Yes, sir; I think it was.

Q. And that the arrangement made under which it has been continued ever since that you have spoken of, about putting the wires of the Telephone Company on the poles in connection with the Fire Department, was made in 1884, subsequent to the passage of that law?

A. The agreement to do that you mean?

Q. Yes.

A. I don't know which was previously, indeed.

Q. It has been so testified to.

A. Well, that is no doubt so.

Q. That was made subsequently with Mayor Low, and the officials of the city at that time?

A. I think so.

Q. And that arrangement has not been changed?

A. Not any.

Q. Now do you understand that in the winter of 1886, the Legislature passed a law by which there was added to this city the town of New Lots?

A. Yes, sir.

Q. Did that increase the population of your city, and increase the necessities of its officials?

A. Yes, sir.

Q. The number of appointments made by or increased in Schedule A was seventeen you say?

A. I think so.

Q. Do you remember that the State Board furnished you with a new schedule by which there was transferred from Schedule B to Schedule A a number of persons?

A. Yes, sir.

Q. And that of detectives there were 45 under that?

A. Yes, sir.

Q. And out of the other departments 38?

A. I don't know the number but there was a large number.

Q. 45, 38 and 17 would make 100?

A. I presume that is it.

Q. And that was done by the change made by the State Board of Civil Services Examiners in authorizing the transfer of those that had formerly been in Schedule B to Schedule A.

A. Yes, sir.

By MR. SHEPARD: Q. In reference to the change made by the State Board, was that change made by the State Board or was it a change made by yourself and authorized by the State Board upon your application?

A. It was authorized by the State Board.

Q. But was not the change made by yourself and authorized by the State Board simply because their authorization was necessary to give validity to the change made by yourself?

A. I suppose it was at our request.

Q. Upon your request?

A. Yes, sir.

Q. Why did you make the request that these 44 detectives on the Police Force should be taken out of the competitive schedule and put into Schedule A?

A. We believed it to be in the interest of the city.

Q. In what respect did you think that would be to the interest of the city?

A. We believed it would be for the best interests of the city to do it in that way.

Q. In what way would it be to the best interest of the city?

A. Because we could put such men in there as would discharge the duties and that we believed would best fulfill those duties to the best interest of the city.

Q. I understood you to say in the early part of the examination when I was asking you on that point that in your judgment the detectives should stand with the patrolmen and doormen in the competitive schedule?

A. I said I suppose they were.

Q. You did not mean to say in your judgment they should stand with the patrolmen and doormen and other members of the uniformed force?

A. I said I supposed they stood there. I did suppose so, but it seems they are not in that category.

Q. You did not mean then to have us infer at that time that in your judgment the detectives should, as to competition, stand upon the same basis with patrolmen and doormen?

A. I think they could be selected for that particular duty better than to have a competitive examination.

Q. Why is that so?

A. Well, we know these men, and we select such men as we know for their peculiar fitness for the place.

Q. Do you not understand the theory of the Civil Service examination is to bring responsible means of knowledge to the appointing officer as to the men who are to be appointed?

A. Sometimes the Civil Service examination does not touch on the point of the particular work they are required to do. Sometimes in a detective capacity, although they may be very ignorant in some things, they may be specially adapted to detective work better than other men.

Q. It is the fact, is it not, that a great part of the examination of any one competing for the position of policeman is what his training has been, what his character has been and what is said of him by those who are prepared to

vouch for him ? Is not that an important part of the Civil Service examination ?

A. Yes, sir.

Q. And is it not a fact as you understand it, a man's rating on the eligible list is in a large measure determined by the results of the examinations of those who vouch for him ?

A. Somewhat so, not wholly.

Q. What distinction do you draw in that matter, between the detective and the patrolman. Can the head of the department know anything as to the detective except as to ask what is said by those who know the candidate ?

A. Well, he may know them himself personally and be familiar with their particular qualifications.

Q. So that the placing of the 44 detectives in Schedule A by yourself, subject to the approval by the State Board, which was obtained, was because Commissioner Carrol would have that personal knowledge of those men that would enable him to make the appointment better than if they were entered on public competition ?

A. I don't know as it was made upon our public application. I don't recollect.

Q. Is it not a fact that immediately after you entered office you made a large number of changes in these regulations subject to the approval of the State Board, and applied to the State Board for their approval ?

A. We did.

Q. And is not that change as to detectives one of them ?

A. I presume that is among them. I don't recollect as to that now.

Q. What were the other changes you proposed ?

A. Well, there was a placing in Schedule A of certain positions in the city ; one was in my own office, that was exempt ; my assistant secretary.

Q. What other changes did you propose then ?

A. I can't recollect them all now.

Q. Let me ask you whether you have a copy of your proposal to the State Board to change those regulations ?

A. I have not.

Q. Do you know whether a copy be in existence ?

A. I don't know.

Q. Was it in writing ?

A. Yes, sir.

Q. Signed by yourself ?

A. Yes, sir.

Q. But no copy of that has been preserved ?

A. Not so far as I know. I haven't any. Whether there is or not I don't know.

Q. Is there any other officer who would be likely to have a copy of those proposed changes ?

A. No one except our secretary, if he has it.

Q. The Secretary of the Civil Service Commission ?

A. Yes, sir.

Q. Did he draft those changes ?

A. No, sir. That is, he did assist me. We consulted together.

Q. Who made the original draft of those changes ?

A. I don't know who wrote it out now.

Q. The original draft. I do not mean the mere penmanship but the composition ?

A. I had some assistance and some consultation.

Q. Was it done by Mr. Evangelides ?

A. He assisted in the writing.

Q. In making the original draft did he take part ?

A. No, sir ; he had nothing to do with that.

Q. Who made the original draft ?

A. I had it done myself.

Q. By some one else ?

A. By some assistants.

Q. Let me ask you who, under your responsibility, made that draft ?

A. The Corporation Counsel and some such assistance. I generally go to him for assistance of that kind. He is my legal adviser.

Q. Did the Corporation Counsel make the changes under instructions from you as to what you wished to accomplish by making those changes ?

A. It was all done under my instructions.

Q. You gave him the changes you wished to make and left it to him to put it into form ?

A. It was done in consultation together and all done by my directions as I ordered it.

Q. I assume it was all done by your direction, but inasmuch as we have no copy I desire to know who it was that made the draft of those changes?

A. Well, I ordered it done.

Q. But who was it you ordered to make the draft?

A. Mr. Evangelides drew the writing.

Q. Who made the draft?

A. It was done by the Corporation Counsel and myself chiefly. He is my legal adviser and I consult with him.

Q. Did the suggestions for these changes in the Civil Service Rules come either from yourself or from the Corporation Counsel?

A. I can't tell you that now.

Q. You don't know whether any one else in any way suggested the changes that you sought to make by that change in the regulations?

A. I consulted a number of persons and then had it drawn up as I thought was right.

Q. And the greater number of the proposed changes were disapproved by the State Commission?

A. There was some disapproved.

Q. Most of them were disapproved, were they not?

A. No, sir, I think not. Very few of them I think.

Q. Very few that were disapproved?

A. Yes, sir, if I am not mistaken. I don't remember the number now.

MR. SHEPARD: That is all I desire to ask you now, Mr. Mayor; but we will be glad to have you make any explanations or additions to your testimony at any time you may see fit.

THE WITNESS: I do not think of anything else now. If you think of anything else you wish to ask me I shall be down stairs and will be pleased to come up at any time. If I think of anything I desire to correct I will be glad to do it.

MR. ARNOLD: I wish Mr. Shepard, you would ask the

Mayor, if any discrimination is made between veterans in competing with each other for appointment.

MR. SHEPARD: Q. I will put that question to you Mr. Mayor, as Mr. Arnold has stated it?

A. Not of any nature or kind. Always give them the preference.

Q. They are rated, however, are they not; they are marked for the eligible list?

A. Yes, sir.

Q. So that there is an order of veterans, the veteran who has the highest mark standing first?

A. Yes, sir.

Q. Then the veterans must be selected in their order?

A. So far as I know they are.

Q. They must be taken in the order of their merit?

A. Yes, sir.

Q. So that the veterans are treated the same as others except they stand as a preferred body of men at the first?

A. Yes, sir.

MR. ARNOLD: I understand from your remark the lists were broken and that preferences were given to some veterans over others.

MR. SHEPARD: I did not mean to say as to veterans.

BY MR. SHEPARD: Q. The veterans are only a small part of the eligible lists?

A. Yes, sir; rather small.

Q. Do you understand whether in certifying from an eligible list at the head of which three or more veterans stand, that the names of the three veterans are sent in?

A. I so understand it, always.

Q. Do you understand whether or not the same preference, proceeding perhaps upon political considerations, applies to other citizens?

A. I think they take the veterans in the order in which they come as I understand it. I know nothing to the contrary and I always understood that was it.

BY MR. ARNOLD: Q. Can you state to the Committee how many names of veterans there are now on the lists?

A. I could not.

Q. Or how many there are in the public service?

A. I could not. I don't know. I could find that out by asking the secretary.

Q. If you could furnish that to the Committee I think they would be pleased with it?

A. I will do so with pleasure. Mr. Evangelides who has the record can refer to his books and trace that out and I will have him do so and have it sent up if you desire it.

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William I. Preston, being duly sworn and examined as a witness, testifies :

BY MR. SHEPARD: Q. You are chairman of the Civil Service Commission of Brooklyn, I believe?

A. I am.

Q. When were you appointed?

A. Twenty-first of January, '86.

Q. You were appointed simply as commissioner, and then elected by the Commission to your present position?

A. Yes, sir; I was.

Q. At what time were you elected President?

A. At a meeting in the early part of February, I believe. It was the 25th of January, I think.

Q. From that time down you have served as president of the Commission?

A. I have as chairman.

Q. Under the organization of the Commission the president, as I understand, is the immediate responsible head of the Commission, is he not? He signs the certificates and he acts as the ex-officio member of every committee, does he not?

A. He does.

Q. And the general machinery of the Commission is more particularly under his direction than under the direction of any other member of the Commission?

A. Well, it may, perhaps, be under the secretary more than under the chairman.

Q. I mean as to the responsibility?

A. Oh, I am the responsible head, as the chairman of the Commission.

Q. And the secretary of the committee acts more particularly under the directions he receives from you ?

A. No, sir ; he acts under the regulations. The regulations provide what the secretary shall do. I believe the regulations do not give me any authority over him.

Q. Have you attended generally upon the examinations ?

A. I have attended many of them, not all of them.

Q. You have regularly signed the certificates of the names from the eligible lists to the appointing officers, have you not ?

A. I have.

Q. Those certificates have been prepared by the Secretary, Mr. Evangelides ?

A. They were.

Q. Will you not answer the question which Mr. Arnold put to the Mayor as to the rights accorded veterans in the practice of the Commission ?

A. The veterans have the absolute preference over civilians. If they are upon the eligible lists, if they are at the minimum they have to receive the appointment over a civilian who may stand at the maximum on the eligible list.

Q. How is it among themselves ?

A. They go in by threes, and the appointing power has the choice of the three ; but the veterans all have to be appointed before any civilian can receive an appointment.

Q. Is it the fact that the veterans have invariably been appointed, as was inquired of by Mr. Arnold, in the order in which they stood among themselves on the eligible list.

A. Under the rules and regulations they have invariably.

Q. You understand such to be the rule ?

A. I understand such to be the rule.

Q. What is the object of certifying three names then ?

A. I do not understand that question.

Q. I understood you to say that the veterans are invari-

ably appointed in the order in which they stood upon the eligible list. Is that the fact?

A. I said the veterans were invariably appointed over the civilians.

Q. But leave out the civilians for the moment and take the veterans as among themselves?

A. They are all appointed. There is not a veteran stands unappointed on the entire list.

Q. There are no veterans?

A. All have been appointed.

Q. So that at present there are upon the eligible lists no veterans unappointed to office?

A. No, sir.

MR. ARNOLD: Mr. Shepard, if you can show by Mr. Preston what is the number, if he can give it, of veterans in the service of the City of Brooklyn now, I would like to have you do so?

BY MR. SHEPARD: Q. Do you know what is the number?

A. I think something over fifty.

MR. ARNOLD: And ascertain also the total number in the service of the City of Brooklyn, of veterans and others.

BY MR. SHEPARD: Q. What is the total in the entire municipal service?

A. 1641 I think it is.

Q. I find in the Civil List as the number of officers within Schedule B, being the competitive schedule, on the first of January, 1887, to be 1799?

A. Well.

Q. Now of that 1,799 I understand 50 are veterans?

A. So I understand.

Q. And that those fifty veterans are all the veterans there are on the eligible list?

A. So I understand.

Q. So there remains no veteran on the eligible list for appointment?

A. So I understand.

Q. What system has been observed under your administration of the Civil Service law in reference to giving the public notice of examinations?

A. What system?

Q. Yes.

A. Well, it has been the rule to advertise that examinations will be held at a stated time, at a stated place, and that applicants must file their application by such a time.

Q. On or before such a date?

A. Yes, sir.

Q. And generally on or before ten o'clock on the morning of some day specified?

A. Well, yes, or the day before, something of that kind.

Q. What is the importance to the community and to the fair administration of this law that there should be ample public notice of examinations?

Q. You are asking my judgment?

Q. Yes.

A. I should prefer to have you confine your question to facts. I will give you facts. I don't want to give opinions or theories.

Q. As to some opinions and theories, of course, occupying the position you do, it is important for us who know little of these things to have them from you, if you know them?

A. I should prefer to give my answers as to the facts in this examination. It seems to me that is the position to take.

Q. I understand you are not willing to tell us what is the importance to the community of a wide and fair public notice of examinations?

A. It would be only my individual opinion.

Q. And because it is only your individual opinion you are unwilling to give it to us?

A. No, I am not unwilling to give it. I don't think it is my province to give opinions and theories. I want to give facts.

Q. But are not your theories and opinions, being chairman of the Civil Service Commission, matters of public importance and interest to the citizens of Brooklyn?

A. Well, not much more so than any other gentleman.

Q. Then you do not attach any special importance to the office you hold in the administration of the law?

A. Most certainly I do, sir. I think it is a very important office.

Q. Do you not understand, Mr. Preston, that the object of this investigation may be, in part at any rate, to recommend legislation improving either the law or the regulations or the practice under them?

A. Well, I understand it to be an investigation. If my opinions are wanted upon the theory and improvement or failures of the law that would be another thing, and I would not care to give such opinions and theories under oath.

Q. What has been the practice as to the form of giving the public notice of these examinations?

A. To advertise that an examination will be held in the papers.

Q. Is the only notice an advertisement in the Brooklyn papers?

A. Yes, sir, it is.

Q. In which Brooklyn papers?

A. In the corporation papers I think.

Q. As I understand there are no posters or placards or circulars sent out by the Civil Service Commission or any department giving notice of the examination?

A. Giving notice to whom?

Q. To the citizens or to any one of an examination?

A. I don't think any such rule prevails.

Q. And no such practice?

A. No, sir.

Q. So that the only notice that has been given is the publication in the corporation newspaper?

A. No, sir. Gentlemen will come to the office of the Civil Service Commission and make inquiries as to when examinations are to be held, and they are uniformly told when the examination is to be held. If the time has not been set they are informed that it will be stated in the papers, and will be advertised or something of that sort.

Q. The examinations are made at irregular times?

A. Irregular times.

Q. And they are made upon the vote of the Commission or upon the direction of the Committee?

A. Upon the direction of the committee on that special department.

Q. So that until the Committee fixes the date of the examination no one is able to find out when the examination will be held?

A. No, sir.

Q. After the date of the examination is fixed by the Committee what I want to get at is what is done in order to give the public notice of that examination, as a matter of practice in your administration?

A. Every gentleman who comes to the office inquiring about the examination is notified that such an examination is to take place at a certain time; and in addition to that a notice is put in the papers by the secretary, signed by him, setting forth that such an examination will be held at certain times and at certain places.

Q. So that the only notice given of the examination is the notice in the corporation newspapers, and then information communicated to such inquirers as may call at the office of the secretary of the Commission after the Committee has fixed the date, and before the time of the filing of applications has arrived?

A. Yes, sir.

Q. Then may I ask you again, whether, in order to accomplish the ends of the Civil Service law, it is not a vital thing that the amplest public notice should be given in the press of these examinations?

A. Well, my opinion is no better than yours, or anybody else's upon that—a question of vital interest.

Q. Are you aware, Mr. Preston, of criticisms made upon the administration of the Civil Service law since you have been its chairman, as to the brevity of the notices that have been given of the examinations?

A. I am aware that there has been some unauthenticated rumors and criticisms. Nothing very authoritative that I have seen.

Q. What have you to say, Mr. Preston, as to the notices having been sufficient or insufficient during your chairmanship?

A. The notices are sufficient to that extent that the ex-

aminations of the various departments have been very generally known.

Q. How have you learned that?

A. By the attendance of people who come to the examination.

Q. Do you mean by the large numbers of those who compete?

A. Yes, sir; excepting on technical questions, that is, for technical services.

Q. I notice in your annual report a very considerable number of eligible lists upon which appear only one name or two names. Do I understand that those are cases where the knowledge required is technical knowledge, and therefore there were but few competitors?

A. That is the way I understand it; yes, sir.

Q. Do you consider, for instance, the janitor of the Municipal Building in this city--the janitorship of the Municipal Building, is a technical position, of which there can be but a few people in the city competent to discharge the duties?

A. I should not think so.

Q. You think that would be a general position requiring general ability?

A. Yes, sir; I should.

Q. And for which naturally a large number of citizens in Brooklyn would compete?

A. Oh, that is a matter of opinion. I do not care to give my opinion.

Q. I notice upon that eligible list of keepers of municipal buildings there is but one name, the name of Cornelius Dozine. Have you any explanation of there being but one name upon the eligible list for that place?

A. No explanation.

Q. I notice under the head of Superintendents of Truants' Home there are but two names on the eligible list; do you regard that as a technical position requiring technical abilities?

A. Well, that is rather an important position.

Q. Not whether it is an important but whether it is a technical position?

A. Well, not in the strict sense of the word ; no, sir.

Q. Do you not think that is a position for which, naturally, in the administration of the Civil Service Law, if it were known it was to be filled, a large number of men would compete ?

A. All I know about the thing is just what happens; that is the fact; that is all the knowledge I have about it.

Q. What did happen as to this large number of eligible lists which contain only the names of one, two or three men ?

A. Well, that is all the number that got on the eligible list under the examination.

Q. You mean all the other competitors were rejected ?

A. I mean that only that number of persons under the examination have got on to the eligible list.

Q. Is it not the fact, that upon those examinations there attended only one, two or three men for those places ?

A. Well, the records of the office will show; they are the best evidence.

Q. You prefer to refer to the records ?

A. Yes, sir.

Q. Have you any general knowledge of there being many occasions for places like those that I have mentioned where only one, two or three men attended to compete ?

A. I did not attend that examination that you speak of, myself.

Q. I observe on the eligible list "Keepers of pipe yards," upon that eligible list I see but one name; have you any explanation of that, Mr. Preston ?

A. What explanation do you require ?

Q. As to why there should be an eligible list for that position which if I understand aright is not technical at all—why should there be an eligible list with only one name on it ?

A. Because there was only one man passed.

Q. Do you mean in that case a good many men were rejected ?

A. The records will show that. I must appeal to those.

Q. Can you give any other explanation of the fact that appears upon the face of your report that many eligible

ists have been constructed under your administration, having but one, two or three names upon them?

A. Can I give what?

Q. Any explanation, or do you care to give any explanation?

A. The explanation is that in the examination of the papers of those applying for that office that there was only one that got on the eligible list, that was qualified, that passed.

Q. That followed probably from the fact there were but few who attended the examination. Is not that so, Mr. Preston?

A. Well, there has been a great many people rejected on the examinations where there was a large number present.

Q. How long a notice do you think would be ample for examinations of the Civil Service Commission in Brooklyn?

A. Well, that is a question of opinion.

Q. What is your opinion as to that?

A. A notice long enough to enable parties who desire such appointments to see the notice and make their application.

Q. How many days in your judgment would that be?

A. Well, I think the notice ought run from five to ten days.

Q. I observe that on the 14th of April, 1886, there were held by your Commission examinations first for foundry inspectors and second for inspectors of lamps, third for messengers and fourth for watchman. It is learned from the records of your office that the advertisements for those positions require the applications to be filed by ten o'clock on the morning of April 13th, the day before the examination; and it is learned from the records of your office that the only notice given of those examinations was in the evening paper of the day before; so that the public were able to learn of an examination from the evening papers of the 12th of April and they had until ten o'clock the next morning to file their applications. Will you state whether for those four positions that was ample notice?

A. Well, my own personal opinion is it was not.

Q. I notice that these four examinations were all to fill places in the department of City Works for which that inadequate notice was given. Now, Mr. Preston, will you state why it was that such a notice was given on those four examinations from the evening of one day until ten o'clock on the morning of the next day?

A. I suppose it is a matter left entirely to the discretion of the Committee having charge of that branch of the examination. I suppose they exercised their judgment about it.

Q. And their judgment was that that was notice enough?

A. And it may have been that there was a large list of applicants for that place. You know applications are coming in all the time.

Q. But are applications taken for those places until the examinations are advertised?

A. Oh yes, sir.

Q. And is it your impression that for those four examinations held on that notice that there were many applications on file?

A. I did not give an impression. I say it may have been. The books will show.

Q. The books that Mr. Evangelides has?

A. Yes, sir.

Q. I observe on the 22d of April, 1886, two examinations were held, one for foreman on street repairs, and the other for garbage inspectors. It is learned from the records of your office that applications for those positions must be filed by ten o'clock on Wednesday morning, the 21st of April, 1886, and that the first public notice was given in the evening papers of the 20th of April, the day before, to fill those places. In your judgment was that sufficient notice?

A. No, I don't think it was; but I suppose the emergency of the case required the immediate appointment of a man.

Q. Inasmuch as a large number of men were appointed under those schedules could the emergency have come suddenly without any warning of any kind?

A. It might.

Q. Do you know of anything in the administration of the City of Brooklyn which made the necessity in April, 1886, for a foreman of street repair or for garbage inspectors, that was sudden and unexpected?

A. If a requisition was made by the head of the department for such a person to be appointed, and there was urgency for it, why then the Committee I suppose ordered the examinations.

Q. Do you think that would be a proper thing, remembering what the Civil Service law is intended to accomplish, under any emergency from a public department, to give a notice from the evening of one day until ten o'clock of the next morning?

A. Well, I think it would have been better to have given a longer notice.

Q. That is your judgment?

A. Yes, sir.

Q. Is it not a fact that the regulations provide for temporary appointments for emergencies, known as emergency appointments, so that the head of any department who is without an officer that he needs, if there be an emergency, upon the approval of the Mayor he may appoint a man without examination if there be no eligible list. That is occasionally done?

A. Yes, sir.

Q. After a person desiring to compete for one of these public places learns that an examination is to be held, what does he need to do in order to qualify himself for competition by the hour of ten o'clock on the morning of the day before which notice must be given?

A. He must sign his application with his vouchers and testimonials.

Q. The application is a paper containing a good many details about himself personally, what he has done in his trade or business, is it not?

A. Yes, sir.

Q. That must be signed by himself and sworn before a notary or other officer qualified to take an oath. Is not that so?

A. Yes, sir.

Q. And in a form provided by your office ?

A. Yes, sir.

Q. Forms which are dispensed by the clerk of the committee ?

A. Yes, sir ; by the officers.

Q. And in addition to that he must have the vouchers of not less than three or not more than five citizens.

A. Yes, sir.

Q. And those vouchers must be signed ?

A. They would not be a voucher unless they were signed.

Q. Then in addition to that there must be the certificate of a physician, a voucher to be signed ?

A. Yes, sir.

Q. And these vouchers must be sworn to also before a notary ?

A. Yes, sir.

Q. So that what the applicant has to do is to give information as to himself, to find three, four or five citizens to vouch for him, to get a physician to make a medical certificate, to have those gentlemen go before officers entitled to administer oaths and administer the oath ; and that must all be done after he learns of the examination and before ten o'clock of the morning of the day on which application must be filed ?

A. Yes, sir.

Q. Do you think that can be done generally or to any extent between the evening of one day and ten o'clock in the morning of the next day ?

A. I think it can be done.

Q. As a matter of mere possibility ?

A. Yes, sir ; as a matter of mere possibility.

Q. As a matter of mere possibility ?

A. Yes, sir ; of course.

Q. What are the hours during which the Civil Service office is open ?

A. The secretary is there sometimes from eight o'clock in the morning until twelve o'clock or two o'clock the next morning. His office is always open.

Q. What are the regular hours of the office ?

A. I think the secretary is there from about eight o'clock until about six.

Q. Are those the regular hours of the office?

A. There are no regularly stated hours in the rules or regulations.

Q. Are not the regular hours of the office from nine o'clock in the morning until four o'clock in the afternoon?

A. Well, when I have been in my office, I have been there at other hours besides those, earlier and later.

Q. Are you able to state whether the regular office hours of the Secretary of the Civil Service Commission are other than except from nine o'clock in the morning until four o'clock in the afternoon?

A. I think they are. I think he is there at a later hour.

Q. Regularly?

A. I think so.

Q. As a matter of regular understanding?

A. He can testify to that himself.

Q. You don't know as to that?

A. I say, I think so.

Q. Where are the blanks to be obtained to fill up?

A. At the office.

Q. And only at the office?

A. Yes, sir; I don't know that they can be obtained anywhere else.

Q. Do you know of one of the Civil Service Regulations which requires the advertisement of the names of persons vouching for the candidates upon their being appointed?

A. I do.

Q. To what extent has that regulation been complied with since you have held office as Chairman of the Committee?

A. The regulation is thoroughly complied with.

Q. Do I understand you to mean, then, that each time a person is appointed from the eligible list, a notice of his appointment is advertised in the papers, with the names of persons vouching for him?

A. It is so done now; yes, sir.

Q. How long has it been so done under your administration?

A. Well, I don't remember how long back. It was done. I don't remember how long ago it was done.

Q. Was it commenced to be done lately ?

A. I don't remember what time it was commenced.

Q. It is not a fact that it is very recently ?

A. I couldn't tell what time it was.

Q. Can you tell whether it has been done for as long a period as a month ?

A. Well, I think it has. That is my impression about it.

Q. Do you think it has been done from the first of January down ?

A. Well, I couldn't tell.

Q. Is it not a fact that during the whole year of 1886, during these appointments to office, that no public advertisement of that kind, pursuant to that law, was made by your Commission ?

A. No, sir, I couldn't say that.

Q. You don't know whether it were or were not ?

A. No, sir.

Q. What was the reason the names of these appointees with the names of the persons vouching for them was not published in the papers as prescribed by law ?

A. Well, I had supposed that all the forms of the law were complied with. It was the intention of the Civil Service Committee to conform literally to every requirement of the law ; and whenever a person is certified to a department the names of his vouchers or his testimonials are also transmitted with the name of the gentlemen from the eligible list to that department.

Q. If you so supposed, being Chairman of the Commission, that that law was complied with, may I ask whose default it was that it was not complied with, whose duty it was to do it who did not perform the duty ?

A. The Civil Service Regulation if you will read that. That sets it forth.

Q. That is to say the Civil Service Regulations direct that that shall be done ?

A. Read that. That sets it forth.

Q. What is the number of that, do you recollect ?

A. I think it is 17 or 27, is it not?

Q. Regulation 27 is as follows: "All appointments made under these regulations shall be published at least once in the corporation newspapers together with the names, in each instance, of the citizens certifying the good character of each appointee." Now answer my question?

A. The question is whose duty it is to publish it?

Q. I understood you to say you supposed the law in that respect was obeyed?

A. I said so.

Q. And being the Chairman of the Commission?

A. Yes, sir.

Q. Now, if it was not obeyed during 1886, whose default was it that it was not?

A. Well, it may be the fault of the Commission as much as anybody.

Q. The Commission itself?

A. It may be. I don't wish to shirk any responsibility myself or put it on the secretary or anybody else.

Q. I understood you to say you believed it was done?

A. I did believe so.

Q. Did the rest of the Committee suppose it had been done?

A. I don't know about that.

Q. Was there any reason why the names of these appointees with the names of the citizens vouching for them should not be published?

A. No, sir.

Q. No reason whatever?

A. No, sir; they should have been published officially.

Q. And the publication as provided by the regulation is to serve an important purpose under the law, is it not?

A. Well, it becomes the duty of the Commission to publish it. I think that is a sufficient answer to your question.

Q. And that is intended to serve an important public object. to make public the names of appointees appointed and to make public the names of those vouching for them?

A. That is the regulation that requires it to be done.

Q. Have you any impression whatever that the reason that these publications were not made, was that the names

of citizens vouching for the candidates were very uniformly the names of men well known in politics in this city as controlling patronage?

A. I not only have no impression of that kind but it is absolutely not true.

Q. You have a strong opinion it is not true?

A. I know it is not true.

Q. But, as I understand you, you have said you don't know whose fault it was that the names were not published.

A. I didn't say so.

Q. What did you say in that respect?

A. I said if it was the fault of anybody it was the fault of the Commission, I supposed.

Q. But you have said already that you supposed the law had been complied with in that respect?

A. Yes, sir.

Q. Now, somebody upon whom the duty was must have defaulted in performing the duty. How do you know the motive of the man who did that?

A. I suppose it was entirely an oversight; and I had supposed, in my own mind, that the certification of these recommendors to the Department covered the point until we came to examine it carefully, and I found it was necessary to publish it, and the secretary has published them faithfully. There is no reason why they should not be published, and there is no desire on the part of any member of the Commission to prevent their publication.

Q. Do you know how many eligible lists were prepared during the year 1886?

A. Somewhere in the vicinity of 70, I think.

Q. Do you know of yourself how many days' notice was, on the average, given of those examinations?

A. Well, they run from what you said there, from two days up to ten.

Q. Do you know that but one of those examinations had a notice as long as ten days?

A. No, sir.

Q. Do you know that of all the 70 there was but two that had a notice of more than four days?

A. No, sir ; I don't believe it.

Q. You do not believe it ?

A. No, sir.

Q. And if it was done it was done without your knowledge or authority ?

A. Well, I know the instructions of the Mayor were that these notices should be ample.

Q. Do you know that the great majority of those notices were notices of two days, or three days, or one day ?

A. Well, they show for themselves.

Q. You don't know as to that ?

A. I have not examined to figure it up and make the computation.

Q. Do you know that in many of those cases one of the two or three days was Sunday ?

A. Unfortunately a great many people do read the papers on Sunday.

Q. But that hardly answers my question ?

A. Well, I suppose the object of the question was to show that notice on Sunday ought not to count. I think people read the Sunday papers pretty generally.

Q. But can they go before notaries public and have their vouchers sworn ?

A. Not on Sunday.

Q. So that the thing which is essential to them to do if they desire to compete is the thing they cannot do on Sunday ?

A. They can do it the following day.

Q. Supposing their applications must be all complete before ten o'clock Monday morning ?

A. There is plenty of time to do it.

Q. Plenty of time to procure three vouchers and have them sworn and procure a medical certificate and have that sworn ?

A. They have got Saturday and Monday.

Q. Even when the publication is in the Saturday evening paper ?

A. Yes, sir.

BY MR. GREENE: Q. Mr. Preston, I think I was misled myself and probably the testimony of the Mayor

himself was not in accordance with the fact; I would like to ask you. The 45 detectives to which I called the Mayor's attention was provided for or to be appointed under a statute of the State passed by the Legislature?

A. Yes, sir.

Q. It is only until recently that Brooklyn has had a distinctive department called the Detective Department?

A. So I understand it.

Q. And these 45 in this list of 100 was by a statute of the State?

A. Yes, sir.

Q. And 17 and 38 was the number transferred?

BY MR. SHEPARD: Q. Do I understand the statute exempted these detectives from examination?

A. So I understand it; from this competitive examination.

Q. So that the Mayor had no discretion thereafter as to those?

A. So I understand it.

Q. Did you get that impression from reading the law?

A. I got that from the Commissioner of Police.

Q. Did the statute provide the number of detectives or a number which it must not exceed?

A. Well, I shall have to refer you to the statute as the best evidence.

BY MR. ARNOLD: I will ask you a question or two, Mr. Preston? What is your salary?

A. Is that a joke?

Q. You get nothing?

A. No salary. The Civil Service Commissioners work for nothing and board themselves.

Q. You were appointed in 1886?

A. Yes, sir.

Q. How many men have been appointed to positions in the city government since your appointment?

A. Well, we have had something like 70 examinations; and under Mayor's administration at the same time, I believe they had 14—in the year preceding.

Q. Will you inform the Committee how many men have

been appointed from your lists during the time you have been in office?

A. I think our report gives that. The secretary will be able to give you the details of that.

Q. I thought you might be able to give us the details very briefly?

A. I think there was some 1600.

MR. SHEPARD: I think this table gives the information Mr. Arnold wishes, Mr. Preston. 209 is the number actually appointed, I think that appears there?

A. 209 competitors actually appointed.

BY MR. ARNOLD: Q. How many of those men have been veterans?

A. 54 of the 209.

Q. That have been appointed to positions during the last year from your lists?

A. Yes, sir, they have to be appointed first.

Q. I understood you to say, that of the 1797 persons now in the employ of the city under appointment, only about 50 were veterans?

A. Yes, sir, every veteran who has passed has received an appointment.

Q. All of those 50 have been appointed during the last year?

A. Yes, sir.

Q. So that there were none before?

A. Oh no, I don't think there were.

BY MR. BACON: Do you mean that there were no veterans in the city's employ?

A. I did not understand that to be the question. I understood the member of the Committee to ask if there were any veterans upon the eligible list unappointed.

BY MR. ARNOLD: Q. I understood you to say of the whole number of persons in the employ of the city about 50 were veterans, and that the whole number was 1797?

A. I mean to say, that the appointment of veterans under the Mayor Whitney Civil Service Commission were 54. What existed prior to that time I don't know.

By MR. BACON : Q. You don't know how many veterans there are in the city's service now ?

A. I do not.

By MR. ARNOLD : Q. I would like to know how many there are altogether of veterans in the service ?

A. The secretary will be able to give you the information. I cannot do so.

MR. SHEPARD : That is all, Mr. Preston. If the committee is to adjourn at one o'clock I will say that Mayor Whitney desires to mention one matter in reference to the detectives and perhaps we better take that now.

Daniel D. Whitney, recalled to the stand and testified as follows :

A. As I understood the question as propounded by Mr. Shepard, he implied or said that I had changed the detectives from Schedule B to A. I wish to have that corrected. Mr. Low himself—here in his book—in 1885 signed by himself, in his Schedule A he enumerates the detectives. So there has been no change at all ; but we have increased that number 13 since I came into office. There were 32 detectives before that and there has been 13 additional appointed. That is all. They are in the same grade they were before I came into office ; no change whatever. The law that authorized this increase is Chapter 404 of the Laws of 1886, page 625, in which it says, " There shall be two detectives to each precinct and 8 detectives at the headquarters." There are those 25 and we have added 13 to make up the number according to law.

Adjourned until Friday morning, March 18th, at 10 o'clock.



COMMON COUNCIL CHAMBER,

BROOKLYN, N. Y.

March 18, 1887.

Met pursuant to adjournment, all the parties being present as stated heretofore.

The Chairman announced that the Committee were ready to proceed.

Upon the suggestion of counsel, the official reporter was ordered to put upon the record the preliminary reports of the Committee to the Assembly upon the subject matter of the investigation, under date of March 11, 1887, there being a majority report and two minority reports, as follows :

PRELIMINARY REPORT OF COMMITTEE.

To the Honorable the Assembly of the Legislature of the State of New York :

Your Committee, appointed under resolution of the Assembly of February 9, 1887, do respectfully report progress of the Investigation therein ordered :

The Committee was enabled to choose its counsel and to complete its other preparatory work prior to March 4. The information gathered at the sessions is sufficient to require the immediate submission of remedial measures touching the administration of the offices of Clerk, Register and Sheriff of Kings County. It has long been a matter of public notoriety that large sums have been drawn from the community through the instrumentality of those offices, which directly or indirectly have been used for party purposes. The condition has been chronic. It has not been a question of this party or of that. If public report is to be believed each has alike sinned in this regard. Upon each equally devolves the duty of correcting the mischief. The public, having no explicit information from original sources, has hitherto been compelled to rest upon mere sur-

mises as to the extent of the evil. The exhibition now made of the manner in which these offices have been and now are administered is, it is not immoderate to say, amazing for a civilized community whose public offices in theory are mere agencies for the performance of public business by public servants. It is established that the gentlemen who have served as Clerk, Register and Sheriff of Kings County have received and are now receiving enormous sums of money from the public for services hardly more than nominal in their character. The present incumbents resent any inquiry by the Legislature into the disposition of their great perquisites. They and their predecessors must have known the widespread belief that these moneys, drawn from the public under the forms of law, have been funds to be regularly divided with irresponsible persons, who procured and dispensed political nominations. Through the persistent denial by the County Clerk, the Register and the Sheriff, of any information from which the falsity of this belief could be shown, these gentlemen have largely justified their general acceptance. They are public servants, and yet they refuse to tell the public to what uses are put the sum of \$25,674.72 admitted to have been received by one of them; \$47,304.78 by another, and upward of \$40,000 by the third for the year 1886, all being moneys which were received by them from the public by virtue of their possession of public offices to which they were chosen by the public.

Nor is there excuse for these great rewards in the quality, the difficulty or the amount of the work performed by those who enjoy them. On the contrary, it appears that their own services to the public have been of the most trivial and nominal character. Kings County regularly pays the Deputy County Clerk, the Deputy Register and the Under Sheriff for performing all the responsible, original and characteristic duties of the three offices. It pays all their subordinates. It pays in addition to the nominal chiefs of the offices salaries many times as great as those paid to the chief offices of the State or of the City of Brooklyn. For these payments by the public to the nominal County Clerk, the nominal Register and the nominal

Sheriff, the most substantial work done by them is to take care that these moneys safely reach their hands and are shielded from public inquiry. Mr. Ranken, the present County Clerk, testified that after more than a year's incumbency of his office he does not know what the legal fees are; that he has never inquired; that he has attended at his office "as much as anything to kill time;" that he has nothing else to do;" that "beyond doubt" all the duties of his office might be discharged by his subordinates. His Deputy, Mr. Barnard, who has efficiently and intelligently served in the office for twenty-two years, testified that his present chief has spent more time at the office than all the other county clerks put together during his recollection.

Mr. Murtha, the Register, entered his office as a stranger to its duties. He selected as his deputy a gentleman of large experience in the office, who had at one time himself been Register. To him has been practically assigned the responsible direction of the office. That gentleman thus describes the services rendered by the present Register:

Q. Does Mr. Murtha concern himself about the practical administration of the office?

A. Some part of it.

Q. What part?

A. He discharges mortgages; signs a great many papers, and does a great many things that he is told to do.

Q. Who tells him to do things which he does?

A. I do."

The gentlemen holding these positions and receiving their emoluments are perhaps not to be blamed for entertaining the opinion expressed by the present Register, as follows:

Q. Have you considered the subject of a change in the Register's office from a feed office to that of a salaried office; has there been any agitation on the subject of legislation to that end?

A. Yes, sir.

Q. Dated how far back?

A. About ten years, I guess.

Q. What position has been taken by the office on that subject?

A. My predecessors, I guess, were antagonistic to the change.

Q. Has there been antagonism to the change on the part of the Register in respect to his politics, whether he was a Republican or a Democrat; has he always stuck to the fees and opposed the salary?

A. I presume he has.

Q. Is that your way of looking at the subject?

A. Not aggressively at this time; no, sir.

Q. Defensively?

A. Exactly."

The present Sheriff testified that when he was elected he knew nothing about the office, good, bad or indifferent. Mr. Farley appointed Mr. McLaughlin his Under Sheriff to "take charge of the office and the deputies and all connected with the office." The understanding for his compensation was that he should "receive the fees that Under Sheriffs had before." When asked where they came from, he answered: "They must come from the revenue on the outside; that I don't handle at all, good, bad or indifferent." So far as was disclosed, after a searching examination of the Sheriff and Under Sheriff, it appeared that the entire responsible control and direction of the office was committed to Mr. McLaughlin. In his custody were placed all the receipts of the office; from them he paid to the Sheriff for his support a monthly allowance of \$250. When defending himself for prompting the Sheriff about his testimony, he described his nominal chief as a man who was not "sharp;" a man who made "a great many assertions, and liable to state what he does not know particularly." So far as the Committee could learn, the Sheriff himself performed no responsible act whatever, except to sign checks drawn for him by the Under Sheriff upon one of the institutions in which were deposited the receipts of his office. In one bank such receipts were subject to check in the name of the Under Sheriff, and upon any considerable sum being actually intrusted in the hands of the Sheriff himself it was

immediately converted into bank bills, the disposition of which is now withheld from the public, without doubt, because it is not deemed prudent that the public should know into whose hands these bills have gone. It is clear that the Sheriff, who is a man justly distinguished for meritorious services as a soldier and fireman, is in his present office a mere automaton, operated by other men for their own use and purpose. For services like these, three public officers in the County of Kings receive from the citizens of that county over \$110,000 a year, an average to each of eight times as much as the average salary paid to the executive head of the chief departments of the City of Brooklyn; of seven times as much as the average salary of the heads of the great departments of the State. It is time that laws which permit this anomaly should be changed. But even worse than the serious tax which these impositions lay upon the community is the odious secrecy in which are kept any accounts of the moneys paid by the public. It is claimed that in all three offices the only books in which are entered moneys received from the public for public services are private books. Each incumbent hides these books from the public while he holds office and removes them when he leaves it. And even these books are misleading to the last degree. According to the book produced by the County Clerk the receipts of his office for 1886 were \$25,755.49, and its expenses \$23,674.88, leaving a net revenue to the clerk of only \$2,080.91. To this the Deputy admitted should be added the item paid by the county of \$6,859.77, swelling the net revenue to \$8,940.68. This was stated to be for an exceptionally bad year.

The Deputy testified that in a flourishing condition a possible amount left for the clerk would be \$15,000 to \$18,000. But a little more investigation shows a further uncertain receipt of \$14,734 for 1886, and other earnings for that year amounting to perhaps \$2,000, thus reaching in an exceptionally bad year a net income to the clerk of \$25,674.72 instead of the \$15,000 to \$18,000, which the deputy had testified was the possible amount in a flourishing year. It is not intended to impugn the truthfulness of the clerk or

his deputy, or to contrast them unfavorably with their predecessors. The object is to exhibit in its proper light a system which permits, in a public office, such a concealment of matters strictly and directly concerning the public.

The Register himself, a citizen of great intelligence and large experience in public life, testified that he was positive that the net amount over all expenses which came to him outside of the office during 1886 was covered by \$37,029; that this was all he got out of the office for that year. On further examination the Register admitted that there was besides earned in 1886, though not paid in that year, about \$3,000; but added that he was not aware of any other source of revenue for that year. On his examination upon the third day the Register stated that the amount earned but not paid in 1886 was as much as \$5,000, and he then disclosed an item of \$5,175 paid by a private corporation for special privileges not extended by him to other citizens. This sum, he said, had been paid to his attorney in April or May, 1886. He claimed that his attorney's charge of \$1,000 should be deducted. The Register produced no books showing any of these receipts for which he netted for 1886 not less than \$47,304 78. A system which permits as able a man of business as Senator Murtha to be so uncertain as to his net income received from the public in an office under his sole control in a year so recently ended as 1886 fails, to say the least, to meet the reasonable requirements of the public service.

Of the Sheriff's income we have no information whatever derived from books which even purported to show the entire receipts of his office. Two books were indeed produced which were kept in his office as showing official receipts and disbursements, but how complete is their account of receipts it is impossible to say. In the almost entire ignorance of the Sheriff himself we are left for this information to the recollection of the Under Sheriff, Mr. Hugh McLaughlin—or rather to such parts of his recollection as he chose to give. Assuming that the net earnings for 1886, not paid until 1887, were equal to those for 1885, not paid until 1886, the Sheriff and Under Sheriff received for 1886 above all expenses at least the sum of \$41,618.75—consist-

ing of \$3,000, paid in monthly sums of \$250 to the Sheriff for his and his family's support, and of \$38,618.75 drawn in four amounts and in bank bills, whose ultimate destination is withheld. Besides this sum of \$41,618.75 for 1886, there were also received moneys paid out under the head of disbursements for purposes which the Sheriff refused to disclose to persons appearing to have no official relation to the office.

But to the Committee even the receipts for one year's nominal service by those officers of \$25,674.72, \$47,304.78 and \$41,618.75, or what is even worse, the obscurity and secrecy in which the details of public business are kept, do not seem so injurious to the public interests and so demoralizing to the public service as the system now glaringly exposed of charging "extras" for services performed by public servants in the course of their official duties. As to the Sheriff's office our information upon this subject is as yet imperfect. The Under Sheriff, Mr. McLaughlin, states that his compensation consists of a percentage of these "extras" but was unable to give any information about the amount. As to the County Clerk's and Register's officers it appears that the "extras" are almost if not quite equal in amount to the fees for the services allowed by law for the County Clerk's office. These "extras" amounted for searches alone in 1886 to \$12,314, which was divided, 20 per cent. to the Deputy Clerk, and 80 per cent. the searchers.

In the Register's office the "extras" for 1886 amounted to \$18,289.74, which was divided one-third to the Register and two-thirds to the searchers. The net income for 1886 of the County Clerk's office above all the stipulated and publicly known expenses and above all compensation to subordinates is thus shown in reality to be \$37,988.72, instead of \$25,672.72 already mentioned; and the net income of the Register's office above the stipulated and publicly known expenses and compensation to subordinates is shown in reality to be \$59,497.94 for 1886 instead of the \$47,304.78 already mentioned. The larger sum is reached by adding to the \$47,304.78 two-thirds of the \$18,289.74 received for "extras;" the other third is included in the

\$47,304.78. The excuse for this system of "extras" is that citizens frequently require their searches to be expedited, and for the expedition they are made to pay an extra amount. It appears that the necessity for this expedition largely arises from the fact that searches regularly awaiting their turn are crowded out of the attention of the publicly paid searchers during official hours by the expedited searchers; that the regular hours are used for expedited service, and that citizens interested in real estate are put under an undue and improper pressure to have their searches expedited and to pay for it the extra charge. To this, in very large measure, is doubtless due the oppressive expense in late years for the examination of titles, a burden especially and onerously felt by the purchasers of small or inexpensive real estate. The whole system of "extras," or of any charges unknown to the law, required to be paid to public servants for better or more quickly performing for one citizen a public service than for another, is dangerous, corrupting and undemocratic. If the conduct of public business makes it desirable, as is sometimes the case in private business, to have a lesser charge for a slower service and a larger charge for a faster service, the matter should be publicly and clearly regulated by law. Beyond, however, all these considerations is the debauching effect upon public life, upon the wholesome political life of a community, of the division among hidden but powerful manipulators of political machinery, as is commonly believed, of these great sums drawn from the public by its servants for little real service. In the end that there be no delay while the facts are fresh in mind and the public interest aroused in seeking a permanent remedy for these evils, we beg to report, for the consideration and action of the Legislature, three bills—one relating to each of the three offices of Kings County which we have named. As to the bills relating to the County Clerk's and Register's offices, we beg particularly to say that we have sought to provide for the heads of the offices salaries fully suitable to their dignity and importance, and as far as possible to secure to the public the advantages of the diligence which piecework

rather than fixed salaries to subordinates would give. The Mayor of Brooklyn is paid \$6,000 a year; the Counsel to the Corporation, \$8,000; County Judge of Kings County, \$10,000; the heads of the city departments, \$2,500, \$3,000, \$4,000 and \$5,000. We think \$8,000 a year to the County Clerk and Register and \$5,000 a year to the deputies liberal compensation. All copyists and searchers should be paid according to the amount of their work. A system of salaries to employees might lead, as Messrs. Murtha and Ranken suggested, to a great increase of force and decrease of diligence; the precise amount of such work is chiefly matter of record and susceptible of easy verification upon the system of public book-keeping provided in the bills we submit. The necessity of having some searches expedited we recognize by the provision that out of regular hours such expedited work may be done by fees increased by one-half, the searcher doing such work to be entitled to two thirds the increase of the fee, but no searcher to be paid in any month for extra searches more than one-fourth the amount paid him in that month for regular searches.

The defense of the fee system, so far as the Sheriff is concerned, is found in the liability which he must personally incur through mistakes in the execution of process. It has been deemed important to the public that the Sheriff should be a man of pecuniary responsibility, in order to meet the claims of persons wrongfully injured by such mistakes. It has been deemed just that for assuming such liability there should be compensation in the magnitude of his income. In the clerical duties of the County Clerk and Register there is, with reasonable care, but slight opportunity for mistakes causing personal liability, and practical experience has shown that while, in a proper administration of these offices, pecuniary liability is almost never incurred in the Sheriff's office. On the other hand, even reasonable diligence is not always a protection from serious loss. But of late years the practical administration of Sheriff's offices receiving very large incomes has been such as to utterly defeat the only reason which can justify such incomes. Sheriffs in Kings and New York

Counties, after personally receiving vast sums of money in their offices, have repeatedly retired from office insolvent and unable to respond to any claim made against them. This is a natural result of the waste and misappropriation which so frequently attend the irresponsible receipt of large sums. Of this Sheriff Davidson in New York and Sheriff Stegman in Kings County are striking illustrations. The enormous net receipts of these sheriffs had been so expended that when claims were made upon them they had nothing with which to meet them. In the exhibition made of the disposal by the present Sheriff of Kings County of his income after the allowance to himself of an annual living income of \$3,000, there is, to say the least, but little reason to suppose that from so much of the income as he is permitted to retain he will be able when he leaves his office to meet any serious pecuniary claims made against him.

We think, therefore, that the public interests will be best served by continuing the fee system in the Sheriff's office, but in such manner, however, that this object to be served by that system shall not be defeated. We propose that out of the income of the office there shall be allowed to the Sheriff a salary of \$6,000 a year, payable to him during his term; that the remaining net income of his office shall be deposited with the County Treasurer as security for the payment of judgments recovered against the Sheriff for his acts or omissions while acting as Sheriff; that the moneys so deposited shall be paid out under the direction of a court to the persons, if any, recovering such judgments, and that at the expiration of one year from the end of the Sheriff's term the surplus remaining of such deposit shall be paid to him as his personal property, excepting that enough shall then be retained to meet the probable recoveries in any suits then pending against the Sheriff, and of whose pendency notice shall have been given to the County Treasurer, and moneys to be retained, until those suits have proceeded to judgments. This plan seems to us simple and practicable. The Sheriff will continue to receive large emoluments to indemnify him against money claims; the

public will be protected ; the Sheriff will have an abundant motive to be careful in the performance of his duties, and the repetition of certain recent scandalous experiences will be prevented.

In all of these bills we have carefully inserted as features of capital importance provisions for great publicity as to the records and receipts and fees of those offices. It is to be hoped that the public will not again be met with the deficient and corrupting pretense that the public has no concern with the public receipts of public servants for public services ; that any records of such receipts are mere personal books of those servants, to be concealed by them from their employers during their terms of office, and to be removed by them at the expiration of these terms. In most public business the surest protection to the public is to be found in the utmost publicity.

March 11, 1887.

ALEXANDER S. BACON, Chairman,
FRANK B. ARNOLD,
FREMONT COLE.

I concur in the suggestion that the fees received by the Register, Clerk and possibly the Sheriff, are unreasonably large, and that they should be reduced, and believe that can best be accomplished by an act declaring that the officers who shall succeed the present incumbents shall receive only sixty or seventy per cent. of the fees now allowed by law to such officers. I do not concur in many of the statements and inferences contained in the foregoing report. There is no evidence that any of the fees of either officer are used for political purposes.

GEORGE W. GREENE.

In many of the features of the foregoing report I heartily concur, especially in the conclusion that the present compensation of the County Clerk and Register of Kings County is far in excess of the amount which should be allowed for the services rendered. Some remedial legislation should be adopted, but I have not had opportunity since the submission of the report to determine whether or not the measures

proposed by the majority of the Committee are wise and just. From such portions of the report as directly or impliedly imputes dishonesty to the officials named therein I am compelled to dissent.

EDWARD D. CUTLER.

(The three bills described accompanied the report.)

Alexander C. Evangelides, being duly sworn and examined as a witness, testifies :

BY MR. SHEPARD : Q. You are the Secretary of the Civil Service Commission ?

A. I am.

Q. And have held that position since when ?

A. Since the first day of January, 1886.

Q. How soon after that date was a change made in the constitution of the Commission ?

A. About twenty-five days afterwards.

Q. And the gentlemen who are at present commissioners took their places at that time ?

A. Yes, sir.

Q. You are aware, Mr. Evangelides, I take it, of the regulation requiring the publication of a civil list as of the first day of January, in every year ?

A. Yes, sir.

Q. Was such a civil list published for the first day of January, 1886 ?

A. There was not.

Q. Why was no civil list published at that time ?

A. Because I received no instructions from the members of the Commission who were in office at the time.

Q. When did you first, Mr. Evangelides, examine attentively and carefully the regulations ?

A. The latter part of January, 1886.

Q. Who were the commissioners on the first day of January, 1886 ?

A. Ex-Mayor Low's Commissioners ; Mr. Doty and Mr. Shepard, and you have the names there, I think.

Q. You don't mean Mr. Shepard, for he had resigned some time before that, had he not?

A. Yes, sir.

Q. Were they not as follows: Mr. Doty, Mr. Schumann, Mr. Clyne, General Brownell, Colonel Rueger, Dr. Moore, Dr. Lewis, Mr. Healey and Mr. Powers; were not those the Commissioners on the first day of January, 1886?

A. Yes, sir.

Q. And remained such till about the 25th day of that month?

A. Yes, sir.

Q. I understand, Mr. Evangelides, that it was in the latter part of that month that you first became familiar with the regulations?

A. Yes, sir.

Q. And you then examined, I take it, the regulation requiring the publication of the civil list?

A. Yes, sir.

Q. Did you, upon learning of that requirement, take any step towards complying with the provision of the law?

A. To prepare the civil list as correct as I could, under the circumstances.

Q. What did you do with reference to a publication of the civil list?

A. We didn't publish it.

Q. You did not publish it?

A. We did not publish it.

Q. What step, if any, did you take at that time with regard to the publication?

A. None; but we prepared the civil list.

Q. Was the attention of the Civil Service Commission or of its officers called to the absence at that time of the civil list?

A. Not at that time particularly, but later on it was.

Q. Are you aware, Mr. Evangelides, that the preparation of the civil list has usually been done after the first day of February, although it is dated as of the first day of January?

A. I was not aware of that.

Q. You did not know that?

A. No, sir.

Q. You say that the attention of the Commission was drawn to the absence of the civil list for 1886; whose attention did you draw to that?

A. I don't recollect exactly any one in particular; but I remember the attention of the Commission was drawn to it.

Q. At a meeting of the Commission?

A. No, sir, informally at my office; it was at the time while I was preparing the civil list.

Q. And so it must have been soon after the first of February, I take it then, of the year 1886?

A. About that time.

Q. Did you call the attention of the Chairman, Mr. Preston, to it?

A. Not particularly; I don't recollect.

Q. Do you remember the names of any of the gentlemen whose attention was drawn to the absence of the civil list?

A. No, sir, I cannot; I do not recollect.

Q. What did take place then in reference to the preparation of the civil list?

A. I prepared it myself, and kept it in the office always.

Q. But with reference to the publication of the list?

A. It was postponed from one month to another, until we thought it was too late to publish it for the year.

Q. You say you postponed it; do you mean to say it was postponed by resolution of the Commission?

A. No; I do not.

Q. Whose act was the postponement, from time to time, of the publication?

A. No one particular.

Q. Do you mean that it was simply an omission without explanation, or was it omitted with any intention?

A. Without any intention whatever, because inasmuch as I had the civil list in my office, that answered for all intents and purposes.

Q. But the regulation provides for the publication, does it not, of the list, so that citizens generally may examine it?

A. I see there is something about the publication of the civil list.

Q. Do you preserve, Mr. Evangelides, the civil list in the state in which it is from month to month?

A. No, sir; from year to year.

Q. You do prepare a civil list every month, do you not?

A. If there are any appointments; not a separate list; I have the same list.

Q. But with reference to the composition of officers on the civil list, do you not prepare a civil list every month?

A. No, sir; not every month, unless there are any appointments and I have to give them new numbers; then I have to insert their names in the civil list.

Q. What have you in the way of material or records that would show the civil list of January or February, 1886?

A. I have material up to the first day of January, 1886.

Q. Exactly; and are you able from that material to tell the numbers of the officers of the civil list at that time?

A. Yes, sir.

Q. Have you them here?

A. I have it here.

Q. Will you let me see the schedule, please?

A. Yes, sir.

(The list is handed to counsel.)

MR. SHEPARD: I will read it.

The paper is read in evidence as follows:

SCHEDULE A.

No of positions on Schedule A., in January 1, 1885	108
Detectives transferred by ex-Mayor Low from Schedule B to Schedule A during the year 1885.....	25
	<hr/> 133

SCHEDULE B.

No. of positions in Schedule B on January 1st 1885....	1553
Deduct Detectives transferred to Schedule A.....	25
	<hr/> 1528

Increase during the year 1885.....	
Appointments in the Fire Department.....	89
Police Force.....	41
Clerks.....	2
	<hr/>
	1660

SCHEDULE D.

No. of laborers in Schedule D, on January 1st, 1885	255
Added during the year.....	355
	<hr/>
	610

BY MR. SHEPARD: Q. Mr. Evangelides, where is the original material from which this list is prepared ?

A. From the civil list which I found in the office.

Q. The civil list of 1885 which you found in your office ?

A. Yes, sir.

Q. Then the additions and changes—

A. They are made by the Civil Service Commission.

Q. And are shown upon what record ; upon what book ?

A. They are in the civil list.

Q. You misunderstand me ; you have taken the civil list of the first of January, 1885 ?

A. Yes, sir.

Q. Then you have added to that the additions appearing during 1885 upon the manuscript free list and upon the manuscript records which you have ; am I right ?

A. No ; the Secretary of the Commission, my predecessor, did that.

Q. But I want to know where is a record of what he did in that regard ?

A. There is the record.

Q. Upon the civil list itself ?

A. Yes, sir.

MR. SHEPARD: May I look at it then ?

MR. GREENE: Look upon the margin.

BY MR. SHEPARD: These additions are in the handwriting of your predecessor, Mr. Sutphen ?

A. Part of it.

Q. And in whose handwriting is the rest of it ?

A. The rest is mine from January 1st, 1886.

Q. Well, I notice in Schedule D you speak of the additions during the year being 355, and you add them to the list on the first of January, 1885, which was then 255 ?

A. Yes, sir.

Q. Now, is it not the fact, Mr. Evangelides, that the larger number of laborers lose their positions, so that in point of fact the actual number on the first day of January, 1886, was in all probability just about 255 instead of 610 ?

A. Some of them lose their work, but others replace them.

Q. Precisely ; that is to say, the list of laborers is a shifting list ?

A. A shifting list, yes, sir.

Q. And in order to tell all the number in Schedule D, or in any schedule, it would not do to take the number on the previous date and then add to that all the additions during the interim. would it ?

A. I took it exactly as my predecessor had it in the book there.

Q. I ask you for your opinion upon that ; that would be misleading, would it not ?

A. Yes, sir,

Q. So that the number actually in the service of the city on the first day of January, 1886, was not 610 ; you don't mean that ; but a number very much less than 610 ?

A. I made the memorandum from the books ; I made the memorandum from the civil list.

Q. You just have said that that would be very misleading, have you not ?

A. It might be.

Q. Well, what we want to get at is, if we can, what was the actual number in the employ of the city in Schedule D on the first of January, 1886 ; have you any means of doing that ?

A. Well, I might be able to do it, if you could give me two or three days time.

Q. Be kind enough to do it ; you have undoubtedly been pressed for the amount of material we have asked of you,

but will you be kind enough to do that, so as that this may not be misleading as to Schedule D ?

A. Yes, sir.

Q. Then in Schedule B you speak of the increase of the police force as being 89 ?

A. No, of the fire department.

Q. I beg your pardon, I mean the Fire Department. The increase of the fire force you speak of as being 89 ; but no allowance is made here for the necessary decrease in the Fire Department force by death, resignation or otherwise occurring during the year 1885 ?

A. I can see no change in my civil-list.

Q. But does the civil list show from time to time the actual deaths of the civil servants of the city ?

A. It does ; my civil list does.

Q. But the previous civil lists do not show that ?

A. It did not show that.

Q. So that in order to tell what the actual increase of the fire force in 1885 was we should have to deduct from the number 89 whatever the number was of the firemen who died or who for any reason left the force during that year ; is not that true ?

A. Yes.

Q. And the same consideration would apply to the increase shown upon this schedule prepared by you with reference to the Police Force of 41 ; you would have to deduct from that the number of deaths or resignations from the Police Force ?

A. No, sir ; I called the attention of the Police Department to that fact a few days ago. It was increased by 41 in one year ; the Police force was increased by 41 in number during 1885.

Q. You mean the net increase was 41 ?

A. The net increase.

Q. After making allowance for those who retired for any reason ?

A. For those who retired or died.

Q. Have you a list which will enable us to verify that ?

A. I think you will find it in the Civil List.

Q. What part of the Civil List ?

A. That part about patrolmen ?

Q. Yes ; I observed upon these Civil Lists which you have produced under the head of the " Department of Police & Excise," certain names stricken out with memoranda opposite to them showing the occasion, whether they were retired or died ; and that is your explanation as to that ?

A. Yes, sir.

Q. If I understand you aright, so far as you have been able to ascertain during 1885, the net increase in the police force was 41 ?

A. Forty one ; yes, sir.

Q. The increase in the fire department was eighty-nine less such number as may have left the force ?

A. Yes, sir.

Q. And that number you do not know ?

A. I am not certain.

Q. And as to Schedule D you have no material ?

A. No material which enables me to give an exact statement

Q. No material which enables you to say whether there is an increase or decrease during 1885 ?

A. No, sir.

BY MR. GREENE: Q. Your statement is taken from the book as you find it ?

A. Yes, sir.

Q. And that shows a total increase in 1885 of how many ?

A. Of three hundred.

Q. Six hundred and ten is the whole increase of all the departments ?

A. Yes, sir.

Q. And that is the statement as it came to you ?

A. I have the statement in the paper that I have given to Mr. Shepard this morning.

MR. GREENE: Mr. Shepard, you are asking him as to whether these men were not dropped out, and as matter of fact there is nothing on the book that he has to indicate whether they were or not ; the book shows nothing of that ; it shows an increase of three hundred and fifty-five.

MR. SHEPARD: Taking altogether the whole increase, the question is how much does it amount to in respect to laborers, firemen, police, etc. The witness has not added that up. I will give the Committee the details of that — In Schedule A there are twenty-five, in Schedule B one hundred and thirty-two, less whatever decrease occurred in the fire force, which the witness says he does not know —

BY MR. GREENE: Q. Is there anything to indicate that there was any decrease?

A. No, sir; not in the Civil List.

Q. That is what I want to get at; have you any way of obtaining that?

(Witness makes no answer.)

MR. SHEPARD: In Schedule D. the increase is three hundred and fifty-five.

MR. GREENE: That is what I want to get at.

BY MR. SHEPARD: Q. Now, Mr. Evangelides, when the Civil List is prepared for publication it is the intention, is it not, to show on that list the names of the persons who are actually in the employ of the city?

A. Yes, sir.

Q. But until the Civil List is prepared for publication it does not show the removal from the service of the city of the laborers who left the employ of the city or of other employees or officers, does it; or did at that time?

A. It does not show.

Q. So that it is impossible from this Civil List which you produce now to ascertain what the actual force in the employ of the city was on the first day of January, 1885?

A. I produce it just as well as I can from the Civil List.

Q. No, but the question is, is it from this Civil List possible to do that?

A. It is possible to do it from that Civil List by going to the department of the city works where most of those appointments were made. It could be done by inquiring there.

Q. Do you mean that you have inquired?

A. I inquired afterwards in the department of the city

works and I ascertained pretty near that the number here given is pretty near correct.

Q. I am referring, Mr. Evangelides, to Schedule D, in the Civil List produced by you. I observe that the first of January, 1885, Schedule D shows not a single man or change, but shows simply the additions?

A. The additions.

Q. Now do you infer from that that every man whose name was on the Civil List on January 1st, 1885, was actually in the employ of the city on the 1st of January, 1886?

A. Most of them were there.

Q. Do you know, Mr. Evangelides, anything about it?

A. There would be very few changes in the laborers.

Q. Do you know anything about it?

A. I don't know certain.

Q. After you became the secretary of the Civil Service Commission what was the first work which you had to do?

A. To enter all the applications for offices on my books.

Q. Did you participate in the preparation of the amendments proposed by the Mayor of Brooklyn to the municipal regulations on the 23d of February, 1886?

A. I did not.

Q. I understood his Honor, the Mayor, to say that you had something to do with that?

A. Copying.

Q. Merely the copying?

A. Yes, sir.

Q. From whom did you receive a draft of those regulations to copy?

A. From the Mayor himself.

Q. In whose handwriting?

A. A handwriting unknown to me.

Q. A handwriting unknown to you?

A. Unknown to me entirely.

Q. Did you attend as the representative to the Mayor before the State Commission with reference to the changes then proposed?

A. I did.

Q. And to make an argument there for him in defense of the proposed changes?

A. No, not to make any argument whatever.

Q. For what purpose?

A. I simply went there to be present if there were any questions that the members of the said Board might be desirous to ask me.

Q. That is to say, questions with reference to these changes?

A. With reference to these changes; with reference to the general scope of the Civil Service.

Q. In order to prepare yourself to answer the questions of the State Committee as to the changes, what had you done in the way of informing yourself as to the objects which dictated the proposed changes, or any of them?

A. I didn't take any part in the discussion; simply they asked me two or three questions, which I don't recollect now; they asked me a few questions about the Civil Service.

Q. I notice one of the changes proposed then in February, 1886, was the omission of Regulation XXVII., which provided for the publication in the corporations newspapers of all appointments made, together with the names in each instance of the citizens certifying the good character of each appointee?

A. I don't recollect of any such change having been proposed. It may have been, but I don't recollect it.

Q. Will you look, please, at the paper I now produce, and state whether, to the best of your judgment, that is a copy of the decision of the State Commission; are you familiar with that?

A. I don't recollect that.

Q. You don't know?

A. No, sir; I do not know.

Q. Have you in your office, Mr. Evangelides, a copy of the decision of the State Commission?

A. Yes, sir, I have.

Q. Could you send a messenger to your office for it?

A. Yes. I will ask Mr. Walradt to do it. I will tell him where to find it.

(The witness describes to Mr. Walradt where it can be found.)

Is the paper I now show you a copy of the second annual report, January, 1, 1886, of the Civil Service Commission?

. It is.

MR. SHEPARD. I read from that report the following, page 5:

The total average service of the city during 1885 has been as follows: Positions excepted from Civil Service—the Mayor and heads of departments, members of missions and police justices, 32; aldermen, 19; members of Board of Education, 45; teachers and employees of the Board of Education, 1,785. Positions in Schedule A, being positions of particular trust or executive responsibility and not subject to competition, 108. Positions in Schedule B, to which appointments are made solely on competitive examination, 1,631. Average number of laborers and day workmen, approximate 450. Making the average total number of persons in the service of Brooklyn approximately 4,070.

MR. SHEPARD: And deducting the number of exceptions in that schedule, 1881, from the average total number of persons in the list, 4,070, there remain 2,189 as being the average number of persons in the employ of the City of Brooklyn on the first of January, 1886, included in the three Schedules A, B and D; is that so, Mr. Evangelides?

. Yes, sir.

. And that is upon an estimate of the average number of laborers as being 450?

. Yes.

. Now as I understand, Mr. Evangelides, the number of laborers in the summer is very much greater than it is in the winter; about the first of January it sinks to two or three hundred, does it not?

. Yes, sir.

. And in the summer it rises to very many hundreds more than that; is that correct?

. Yes, sir.

. What has been done in compliance with Regulation

XXVII as to the publication in the corporation newspapers of appointments together with the names of the citizens certifying the same?

A. It has been the practice of the Commission to always give the names of those who were appointed to office to the representatives of the press, although we never published them in any newspaper, nor did we publish the names of those who vouched for their character.

Q. Then, if I understand aright, this regulation has not been complied with?

A. It has not been; it was an omission. As to that on recently we looked it over and decided that the names of those who had been appointed to office together with the names of those who certified to their character should be published.

Q. How recently is that so?

A. Since the first of January of this year.

Q. Give the date more nearly than that?

A. I think about the 5th or 10th of January; I think about that time.

Q. When was the first publication of that kind made?

A. I think it was about the middle part of January, which I can find very easily.

Q. What did that compliance with the law result from?

A. Well, it was on one day Mr. Preston, the chairman of the Civil Service Commission, came to my office and said: "Mr. Secretary, there is a law which we have unintentionally violated, which says that every nominee appointed to positions shall be advertised in the corporation newspapers together with the names of the parties vouching for their character; and now, Mr. Secretary, we must comply with the rule hereinafter."

Q. Was that the only conversation you had with any member of the Commission with reference to that publication?

A. As far as I recollect that is the only one.

Q. And do I understand that during the whole of the preceding year your attention had not been drawn to that?

A. Well, we thought that by giving the names to the

ess of those who were appointed to office that might be efficient.

Q. Did you give to the press at that time the names of those who vouched?

A. No, sir; only the names who were appointed.

Q. Do you not understand that the object of this regulation is to make publication not only of the names of the pointees, which is a thing easily done, but also to make public the names of the citizens upon whose recommendation these men were appointed?

A. Yes, sir.

Q. That is the intention of the law?

A. Yes, sir.

Q. And that was not complied with during 1886?

A. I say that was an omission.

Q. This omission you have spoken of?

A. Yes, sir.

Q. Please refer to the copy of opinion of the State Commission, which you have in your hands, and turn to Regulation XXVII, and then state whether an application was made to the Commission in February, 1886, to abolish the regulation which provided for that publication?

(The witness refers to the copy of the opinion of the State Commission, which has been produced for him from his office by Mr. Walradt.)

A. I have the opinion here. On the proposed amendment Regulation XXVII, the opinion says:

“The amendments propose the omission of this regulation, which provides for the publication in the Corporation papers of all appointments made, together with the names in each instance of the citizens certifying the good character of each appointee.

“The reason assigned for the change (the expense of publication) does not seem adequate, in view of the advantages gained by the publicity which is now secured for the working of the system as regards appointments and as regards the parties vouching for the appointees.”

Q. It is here stated in the opinion that the reason assigned for the change, the expense of publication, does not seem to be adequate ; who assigned the reason for the change ?

A. I have not the remotest recollection about this.

Q. Was there present at the hearing of the State Commission any representative of the Mayor or the municipal authorities excepting yourself ?

A. No, sir.

Q. Do you know of any reasons being assigned, either orally or in writing, for any of these changes, excepting such as were assigned by you at this hearing before the State Commission ?

A. No, sir.

Q. You know of none other ?

A. No, sir.

Q. Then is it not obvious that in February, 1886, at the very beginning of the administration of the present Commission, their attention was drawn conspicuously to the requirement that the names of appointees and of their vouchers should be published ?

A. Yes, sir.

Q. And although the attention of the Commission was thus drawn to that regulation in February, 1886, the entire remainder of that year expired without any compliance with that law ; that it so, is it not ?

A. That is so.

Q. Have you examined the names of the gentlemen who have vouched for the successful appointees ?

A. I have.

Q. Are you familiar with politics in the City of Brooklyn ?

A. Very little ; I have not had time to devote myself to any politics.

Q. During your time of service as Secretary to the Civil Service Commission, you have seen a great deal of politicians ?

A. What do you mean by politicians ?

Q. I mean gentlemen participating in politics in any

ay, and I do not use the term disparagingly ; I mean those who are interested in the affairs of the city ?

A. In the welfare of the city ?

Q. Yes ; and especially those who are interested in appointments to office ; you naturally see a great deal of them, do you not ?

A. Yes, sir ; but I have seen more private citizens interested in the success of applicants for office than people who held offices.

Q. Now, is it not the fact that the vouchers for successful appointees during the year 1886 were almost invariably gentlemen well known in politics on one side ; is not that so ?

A. Yes, sir, to a great extent it is so.

Q. Isn't it so much so that there are but very few exceptions to the rule that no man was appointed under the Civil Service law in the City of Brooklyn during 1886 unless he had on the face of his papers the names and endorsement of men well known in Democratic politics in this city ?

A. No, I am not certain of that.

Q. But isn't that the rule to so large an extent that the cases where it did not happen would make exceptions ?

A. No, sir. Allow me——

Q. Do you mean that it is so or that you don't know ?

A. Well, I think it isn't so ; because when you see the applications of the unsuccessful candidates you may find so that there are almost just as many names there of people well known in the political world—in the politics

Brooklyn, as there are among those of the successful ones.

Q. The facts which I shall state in the three or four questions I am now about to put will be a little later technically proved by Mr. Walradt, who for you and for me has made this examination, so that I will ask you to assume the truth of them for the moment. The total number of appointments made during 1886, exclusive of the appointments to the police force, was how many ; it was about two hundred and fifty was it not ?

A. Yes, sir, I think so ; I have it here on this paper. It was two hundred and nine.

Q. Two hundred and nine ?

A. Yes, sir ; that is in 1886.

Q. The records show that of these two hundred and nine successful appointees, thirty-seven were appointed upon the recommendation of William H. Murtha ; Mr. Murtha is a distinguished politician on the democratic side in this city, is he not ?

A. He is the Register, I think. You mean the Register of this county ?

Q. I mean the Register ?

A. Yes, sir.

Q. Twenty appointments were made upon the recommendation to the Civil Service Commission of William Furey. Mr. Furey is also a well known politician on the Democratic side in this city, is he not ; isn't that so ?

A. He is the Commissioner of Jurors.

Q. And ten appointments upon the recommendation of Hugh McLaughlin ; he is the under Sheriff, is he not ?

A. Yes, sir.

Q. He also is a well known politician on the Democratic side, is he not ?

A. I never met the gentleman except once or twice.

Q. Ten appointments upon the recommendation to the Commission of Alderman McCarthy, 3 of James A. Murtha, 3 of Peter Mahoney, 10 of Edward Moran, 3 of John B. Langley, 5 of Daniel Lake, 6 of George H. Lindsay, 3 of Thomas A. Kerrigan, 3 of E. A. Kollmyer, 10 of John Ennis, 4 of George B. Abbott, 3 of Peter Bennett, 9 of Wm. Barre, 5 of Antony Barrett, 10 of Michael J. Cummings, 13 of Michael J. Coffey, 4 of Thomas Carroll, 7 of Henry J. Cullen, 4 of William D. Cornell, 7 of John Courtney, 15 of John Delmar, 14 of Patrick Hayes. Now, Mr. Evangelides, are not all those names the names of parties well known as active gentlemen on the Democratic side ?

A. I am acquainted with two or three of them, but I am not particularly acquainted with the majority ; really I am not.

MR. SHEPARD : Such then is fame.

BY MR. COLE: Q. Don't you know them by reputation? No, I don't really. I know five or six names.

BY MR. SHEPARD: Q. Will you state from your knowledge of the administration of the Commission whether the fact that a publication pursuant to law in 1886 would have shown that nearly all the appointments made under the Civil Service Law were made upon the recommendation of politicians in the city active upon one party side, did not have concern to the absence of publication?

A. No, sir.

Q. Do you know anything about that?

A. I give my word of honor that I do not.

Q. I did not speak of yourself; of course you are secretary only of the Commission; but I speak of whether that was not the fact?

A. Yes, I know and I speak, sir, of the names of the whole commission. It was an omission only with no intention whatever. I can take it on my shoulders as to the responsibility, and say it an omission on my part; perhaps I had too much work to do.

MR. GREENE: Have you undertaken, Mr. Shepard, to obtain a list during the year 1885?

MR. SHEPARD: I will have that produced.

MR. GREENE: And as to who were the parties who made commendations during the year 1885.

MR. SHEPARD: Yes, I think it will be desirable to go back to the beginning of the commission.

MR. GREENE: I think it will be very desirable to go far back; let us have them all.

MR. SHEPARD: I am having that prepared, and it will be produced.

BY MR. SHEPARD: Q. Do you know the fact as to the publication of the notices of examination prior to 1886?

A. I understand that they published the notices.

Q. That they published?

A. Yes, sir.

Q. And they were published then until the new Commission took office?

A. Yes, sir.

Q. Will you kindly turn now in the copy you have of the opinion of the State Commission, to Regulation XLII 1. That passage in the opinion of the State Commission reads as follows:

“The proposed amendment to Printed Regulation XLII annuls the existing eligible lists, and the pending applications for examination. No reason has been assigned for annulling the applications for examinations, and the only reason urged for annulling the eligible lists is that these lists were largely increased shortly before the close of the last city administration.” Who assigned the reason that is spoken of there for that change?

A. I do not know.

Q. Have you any recollection about it?

A. No, sir; I have not.

Q. It speaks of the eligible lists having been largely increased immediately before the new administration came into power; will you look, please, to the second annual report, and state how many eligible lists were formed during the whole of the year 1885?

A. Fourteen.

Q. And how many eligible lists were formed during the next year, 1886?

A. Sixty nine.

Q. So that five times as many eligible lists were formed during 1885?

A. Yes, sir.

Q. What is the explanation of that?

A. I suppose because there were some positions to be filled; that vacancies occurred.

Q. More vacancies occurred?

A. I suppose new positions to be filled.

Q. How many new positions were to be filled in 1886?

A. I suppose a large number of patrolmen. The police force has been increased, and some engineers in the fire department, and drivers, also in the fire department.

Q. How many of the sixty-nine eligible lists are affected by those positions you have now mentioned, patrolmen and drivers and engineers of the fire department ?

A. Three.

Q. That covers three eligible lists, does it not ?

A. Yes, sir ; I think so.

Q. Three out of sixty-nine ?

A. Yes, sir.

Q. What is the explanation of there being sixty-six new eligible Lists prepared during 1886 outside of the police and fire departments ?

A. I do not know, sir.

Q. Was it the creation of new places ?

A. Not the creation of new places.

Q. Or was it the removal of old officers ?

A. It might have been. I understood that a good many resigned their position.

Q. A good many resigned ?

A. Yes, sir.

Q. The resignations were quite numerous, were they not, in the fall of 1886 ?

A. I think they were from the report of the Commission.

Q. Have you looked at the original resignations ?

A. No, sir ; I have not.

Q. Are you aware whether or not the resignations were generally in the handwriting of the Commissioner or of a clerk in his department ?

A. I do not know.

Q. You don't know about that ?

A. No.

Q. The labor that you have had during 1886 was, I take, decidedly greater than that of your predecessor by reason of this multiplication of Eligible Lists ?

A. I suppose so.

Q. Your labor has been really very great during 1886 ; is not so ?

A. It has been considerable.

Q. And it has been made very great by this great number of changes that have taken place in the municipal service ?

A. I don't know exactly, I know that I have had a great deal to do.

Q. What is the practice of the present Commission with reference to giving notice of examination?

A. Well, sir, a month after I entered upon my duties of secretary of the Civil Service Commission I found there about three hundred to four hundred or five hundred applications already on file for the different positions in various departments. Generally we gave from three to four or five days notice.

Q. In what manner was that notice given?

A. I produce a paper that will show the notices.

Q. This paper is headed: "Examinations held in 1886," showing the date of the publication of notices, the time before which applications must be filed, and the date of the examination itself?

A. Yes, sir; that is a paper I produce in response to your request.

Q. But that is what this shows, is it not; those three features?

A. Yes, sir.

Q. I notice under the head of the date of the time of filing the applications that you give simply the date March 8, or March 9, etc.; at what time on those days was the application to be filed?

A. You have the whole thing there, Mr. Shepard.

Q. State it: it is ten o'clock in the morning, is it not?

A. At ten o'clock, generally is the time to file applications.

Q. What is the largest notice, and by that I mean the longest notice given during 1886?

A. It is five, six or seven days, I think.

Q. Turn, please, to the paper which you have and give me the date of the examination for which the notice of seven days was given?

A. Six days is the longest notice; that is for the examination of drivers and engineers in the fire department.

Q. Will you please state the date of the advertisement?

A. I think it is here on this sheet.

Q. I see that the notice there is dated the 5th of November, 1886?

A. Yes, sir.

Q. And it requires applications to be filed with the Secretary of the Commission, on or before ten o'clock A. M. of the 11th inst.?

A. Yes, sir.

Q. When you say six days notice was given, you mean that six days elapsed from the date of the notice to the day on which applications must be filed?

A. Yes, sir.

Q. But what I am after is the actual notice that was given to the public; are you able to state on what day that notice was actually published in the newspaper?

A. The very day it was dated.

Q. The 5th of November?

A. Yes, sir.

Q. In what paper was that published?

A. I think in the Union.

Q. All the corporation newspapers?

A. Yes, sir.

Q. And published in the last edition of the papers?

A. Yes, sir.

Q. What other examination during the year 1886 was held upon as large a notice as six days?

A. I fail to find any other.

Q. What is the next longest notice that was given?

A. The police.

Q. What is the date of that examination?

A. The 25th day of May it was advertised, and the applications should be filed at the office of the secretary on the 29th.

Q. Will you give me the original advertisement of that?

A. I don't think I have it here. I don't think I have the original advertisement with me. I have it down stairs, in my office, and I can find it.

Q. How many days actual publication before the date for the filing of applications took place in this case?

A. Four.

Q. How many out of the sixty-nine examinations held in 1886 had as long as four days?

A. Four.

Q. O, I can do better for you, I think, than that; there were eight, were there not?

A. (Examining the paper.) There were eight.

Q. And of the sixty-nine examinations, how many were held upon a notice of three days?

A. Thirty-nine.

Q. And how many upon the notice of two days?

A. Twenty.

Q. And how many upon a notice of one day?

A. Nine.

Q. In each case the notice that you have mentioned is a notice from the evening issue of the newspaper of one day to ten o'clock of the day on which applications have to be filed?

A. Yes, sir.

Q. So that where one day's notice was given of the examination, the public had from the evening of the day of the publication until ten o'clock of the morning of the next day?

A. Yes, sir.

Q. Do you know on how many occasions the two days or three days included a Sunday?

A. No, sir, I do not.

Q. Do you remember one case of an examination held on the 7th of July, 1886, for which the notice was given on the 3d of July, the applications to be filed by ten o'clock on the morning of the 6th of July, there intervening two holidays, Sunday and Monday, the 4th of July?

A. I haven't got a distinct recollection.

Q. Will you refer, please, to that examination and see whether that be not a fact; an examination for inspectors of street constructions?

A. Yes, sir, it was advertised on the 3d day of June.

Q. July, was it not?

A. Inspectors of street construction—the advertisement, I think, was June.

Q. Will you allow me to take the original advertisement ; think you are mistaken ?

A. Inspector of steam boilers is one.

Q. Yes, that is one ?

A. Examination of German interpreters is another, and inspectors of street construction is another.

Q. Now, what is the date of that ?

A. That was advertised on the 3d of July.

Q. And the applications to be filed by ten o'clock of the morning of the 6th of July ?

A. Yes, sir.

Q. The intervening days, being Sunday, and Monday being celebrated as the 4th of July ; is not that the fact ?

A. Yes, sir.

Q. Look at the record of the examination of inspectors of street construction, and state how many men got upon the Eligible Lists.

A. Four.

Q. And how many men applied ?

A. Four.

Q. And how many men are on the Eligible List for blacksmiths examined under that notice ?

A. Blacksmiths under that notice ?

Q. Yes, the same day ?

A. Six applied.

Q. And six got on the Eligible List ?

A. Yes ; six got on the Eligible List.

Q. And how many applied for Inspectors of Coal ?

A. I think it was it was only one.

Q. And one got on the Eligible List ?

A. One got on the Eligible List ; that was a very small examination.

Q. And for Inspectors of Steam Boilers ?

A. Five were examined, and five got on the Eligible List ?

Q. Now in those cases it appears that the number examined was the same as the number that got on the Eligible List ; that is so, isn't it ?

A. That is so.

Q. And the number was very small in each case ?

A. Yes.

Q. Now will you state, please, whether it is or not the fact that all, or nearly all, those who got on the Eligible List were gentlemen who had filed their applications a considerable length of time before the advertisement actually appeared in the newspapers?

A. Yes, I think it was.

Q. And is it the fact that the persons who have been appointed under the certification from these Eligible Lists, excluding the Police Department, have usually been persons whose applications have been filed a considerable length of time before?

A. Not invariably so.

A. Isn't it generally so?

Q. You see, Mr. Shepard, we have a good many applications filed before we advertised for an examination. Many applications are on file days before we advertise for an examination.

Q. How do they know these places are to be filled in advance?

A. Why, if a man is a candidate for a position I should think he would know it very well.

Q. And then it is when a man becomes a candidate for one of these places that he learns in advance that the place is to be filled by a competitive examination; that is so?

A. That is very nearly so.

Q. Then the general public, who are not candidates directly to the appointing officers, learn simply from these advertisements which are put in the newspapers?

A. It doesn't follow so, because they themselves may know that there is going to be a vacancy to be filled by competitive examination.

Q. How will they learn that there is to be a vacancy?

A. How do the others learn who file their applications?

Q. That I don't know; but do not the successful competitors under the administration of the Civil Service Commission learn from the heads of the departments that the vacancies are to take place, usually?

A. I don't know.

Q. Do you know whether to any considerable extent appointments have been made from citizens whose applications were filed after the public notices of the examination were given?

A. I think yes.

Q. Isn't it the case that the successful appointees have almost invariably been gentlemen whose applications were filed before any public notice of the examination was given?

A. I can't state.

Q. You don't know as to that?

A. I don't know.

Q. Is there any system of sending personal notices?

A. Always.

Q. You mean to the gentlemen whose applications are on file?

A. Yes, sir.

Q. That is invariably done?

A. Yes, it is done two days before the examination is to be held, or three days before. Then we send postal notices to every man whose application is on file.

Q. Every man whose application is on file is entitled to notice?

A. Yes, sir.

Q. But is there any system of sending personal notices to those whose applications are not on file?

A. No, sir, there is not.

Q. So that to the general public the only method of learning that these applications are to be filed and the examinations held consists in the publication in the newspapers of the City of Brooklyn by the Civil Service Commission?

A. They may have previous knowledge themselves.

Q. But unless they have a previous knowledge themselves, that is the only notice?

A. Yes.

Q. Mr. Preston, the Chairman of the Commission, testified last Monday here that a fair notice was from five to ten days: will you give your judgment as to what a fair notice is of one of these examinations?

A. Well, it depends upon the examinations, Mr. Shepard, a great deal.

Q. In your judgment, is a notice of one day—from the evening of one day to ten o'clock of the next morning—a fair notice?

A. No, unless it is absolutely necessary for an examination to be held—unless there is a vacancy to be filled at once—

Q. But when there is a vacancy to be filled at once, there is a provision for an emergency appointment, is there not, if the public service requires the appointment to be made at once?

A. What is the emergency; please tell me?

Q. Anything that is decided by the Mayor to be an emergency?

A. Well, how can the vacancy be filled then?

Q. I am asking you; I don't know?

A. It seems probable that sometimes it becomes necessary that the examinations should be held as soon possible.

Q. Do you mean when vacancies have arisen suddenly?

A. Well, yes.

Q. Which, of these cases where notices of only one day or notices of only two days have been given, one of which was Sunday, were occasions when the emergency arose suddenly?

A. I think among the engineers.

Q. Give me the number of that Eligible List?

A. Among the last examinations that we have had.

Q. Give me the date of the examinations?

A. No; it is among the machinists, the sixty-seventh examination.

Q. On the 22d day of July, 1886?

A. Yes.

Q. That vacancy occurred in the Department of City Works?

A. Yes, sir.

Q. One day's notice was given?

A. Yes, sir.

Q. One candidate applied?

A. Two applied.

Q. One was successful?

A. Yes, sir.

Q. What was the emergency?

A. That was on account—

Q. Don't you know?

A. There was some cause, but I don't recollect what it was; but I know that they wanted a machinist immediately.

Q. Was there anything to prevent the Mayor permitting an appointment to be made, and then giving fair notice to all machinists and engineers to apply for that place?

A. Do you mean to make a temporary appointment?

Q. Yes.

A. Well, the Mayor don't believe too much in temporary appointments, because temporary appointments sometimes become permanent.

Q. So that there is danger in making a temporary appointment?

A. Yes, sir; and the Commissioners object to them very much.

Q. Do you mean the Civil Service Commissioners?

A. Yes, sir.

Q. To what extent have emergency appointments been made during 1886?

A. Well, there were two or three made in the Park Department I think. They were made as temporary appointments, and they lasted quite a while.

Q. Will you refer to the regulation regarding temporary appointments by its number?

A. Yes, sir, it is Regulation 26.

Q. Does not Regulation 26 provide that no temporary appointment shall be made of any one not eligible for permanent appointment, excepting that in case of exigency, upon the certificate of the Chairman of the Commission, that there are no candidates upon an eligible list for the position, and with the approval of the Mayor, such temporary appointment may be made, and the appointee may hold office thereunder until an Eligible List is prepared, and such Eligible List shall thereupon be forthwith prepared, and

the position shall be then filled from such Eligible List; is not that the provision of Regulation 26?

A. Yes, sir.

Q. If in any department it became necessary, within one or two days, to have an engineer, it was competent upon the certificate of the Chairman of the Civil Service Commission, and with the approval of the Mayor, to make an emergency appointment, a temporary appointment, by reason of the exigency: isn't that so?

A. Yes, sir.

Q. So that it was not necessary for the public service that an examination should be held at once, was it?

A. Well, I don't know about that. They wanted an examination from the City Works Department.

Q. Is there any explanation to be given of that examination being held on one day's notice, from the evening of one day until the next morning at ten o'clock, except the impatience of the City Works Department?

A. That the service required it at once.

Q. Have you any explanation to give of the omission to fill that position temporarily, as the regulation provides?

A. No, sir, I have not.

Q. You spoke of the Park Department?

A. Yes, sir, I did.

Q. Will you not tell the Committee what the facts are as to the difference, if there were a difference, between your Commission and the Park Commissioners of the City of Brooklyn?

A. Any difference? Well, the Park Commissioners entered upon their duties last June. I suppose they were a little inexperienced as regards the Civil Service Regulations, and went to work and appointed two or three men whose names figured on the city pay rolls as skilled laborers, but whose duties actually were those of patrolmen, and they received the salary as patrolmen, although their names figured on the Civil list simply as skilled laborers.

Q. How was that drawn to your attention?

A. I guess their names were on the pay rolls—they are marked there as skilled laborers, and so the salary was something like \$75 a month; and I called the attention of

Park Department to it, and they told me that they only temporary appointments. Well, said I, "We will to work and hold an examination, if you want any cemen to appoint; it is the duty of the Commission to l an examination, if you want them ;" and we did hold examination for park keepers ; and there was a little y with them, and we wanted to find out the delay.

. What delay ?

. In appointing the men from the Eligible List ; and Commissioners told us they had a right to do as theirecessors did. Said I, "What did your predecessors do ?" y said, " Why, they appointed men as park keepers rely outside of the Civil Service." Well said I, "Two igs don't make one right, and if your predecessors ted to evade the Civil Service law, it isn't right that should follow their footsteps." And then I found out t here of twenty-five names holding positions in the c Department as park keepers, and whose names aped on the pay rolls as skilled laborers.

Have you that list ?

I have the names and the dates of appointment.

R. GREENE : We would like to have that list.

R. SHEPARD : I am going to introduce that in evidence, e Committee will permit me, a little later.

From whom did you get this list ?

. From the Park Department.

. I observe it is not signed ; can you tell me the name ie officer who made it out ?

. No ; it was given to me from the Park Department.

R. SHEPARD : May I ask whether any gentleman from Park Department is here ?

iere being no response to counsel's inquiry, Mr. pherd said :

R. SHEPARD : I will trouble you, Mr. Evangelides, to the gentleman who prepared this from the Park De-ment, if you can.

Do you know the handwriting ?

. I do not.

Q. Or do you know the name of the gentleman who handed it to you ?

A. No ; I left word with the Secretary of the Park Board to send to me this list, or to speak to the Park Commissioners about it ; and this came to my office in an envelope.

Q. May we keep this, and ask you to kindly procure the verification of this paper ; I think the Committee should have this ?

A. Yes, sir ; I will.

Q. Is there anything else that you would like to say ; if there is we should be glad to hear from you ?

A. Only on this subject of advertisement.

Q. Please say whatever you desire to ?

A. I know I agreed with Mr. Preston, the Chairman of the Commission, that a longer notice should be given, and that the regulation should be made to comply with that.

Q. So as to require a longer notice ?

A. Yes.

Q. Who designated these various dates ?

A. The several committees of the Civil Service Commission.

Q. So that whatever responsibility there is about it is upon the committees of the Commission ?

A. Yes, sir.

Q. You have been simply their representative in making these publications ?

A. Yes, sir.

Q. Will you give the entire number of appointments of veterans made during 1886 ?

A. Fifty-one.

Q. How many veterans have you left on the Eligible List unappointed ?

A. Three ; two clerks in Grade C, and one chainman.

Q. What are the names ?

A. In Grade C I think it is W. W. Mead, and a man named Brown ; and Charles B. Dake.

Q. They are both veterans ?

A. Yes, sir.

Q. And have not been appointed ?

A. Yes, sir.

Q. What is the meaning of other persons being appointed below on this list, as appears by the Third Annual Report of the Commission?

A. Those were temporary appointments.

Q. But does not the law say that temporary appointments shall only be made from the same list as the permanent appointments?

A. Those appointments were made for the Tax Collector's office during the month of December.

Q. Please refer to the Civil Service Regulation which limits temporary appointments to be made from the eligible List out of the order?

A. Those are entirely temporary appointments? The Collector wanted to take the men who were best qualified for the position. His predecessor year before last took out of eleven men—took those men outside of the Civil Service, who did not pass the examination.

Q. Utterly without warrant of law?

A. Without warrant of law. But the present Civil Service Commissioners, at the time of Collector Hardenberg, urged upon the Mayor to insist upon Collector Hardenberg taking only men who passed the examination before the present Commission.

Q. Won't you state then whether both under the present administration and under the former administration of Tax Office there has been any warrant of law for the appointment of temporary clerks out of the order of the eligible Lists?

A. The present Commission has acted in accordance with the Regulations, because, according to the communication sent by the Collector of Taxes to the office of the Civil Service Commissioners, men were requested with special attainments, as far as could be judged from their examination papers—such men were requested to be referred to him. So the Commissioners examined the papers of a number of men, and they send for Collector Hardenberg, and he came to the office, saw their papers and his opinion was asked if he thought men that passed such examinations would suit the purpose; and he said, yes,

Q. Do I understand then that these were cases where the Civil Service Commission certified the men to the Collector as having special attainments?

A. Yes, sir; as able clerks.

Q. Do you understand that the possession of special attainments over-rides the rights which the veterans have, under the law?

A. I don't understand that question.

The question was then repeated to the witness, as follows:

Q. Do you understand that the possession of special attainments over-rides the rights which the veterans have, under the law?

A. That was exactly on account of attainments, inas-much as the predecessor of Mr. Hardenberg selected his men outside of the Civil Service.

Q. Well, in the case of Mr. Hardenberg's predecessor and Mr. Hardenberg himself, was there any warrant of law for either of those gentlemen ignoring the veterans, who, under the law, stood at the head of the list, and making appointments below them on the Eligible List, and leaving the veterans unappointed?

A. As the Commissioners understood, they were not obliged to do that from the Civil List.

Q. Now, refer to the provision of law, or the regulation which gives a warrant for ignoring the veterans at the head of the Civil List and appointing civilians who are a considerable distance down on the Eligible List?

A. It was done simply as their predecessors did.

Q. Do you know any warrant of law for that?

A. No, I do not.

Q. When did the law take effect?

A. In 1886.

Q. There was no veteran law when Mr. Hardenberg's predecessor was in office, was there; in 1885?

MR. GREENE: Yes; but it was a different law; there was a law relating to veterans then.

MR. SHEPARD: It was construed simply to put them in their places on the Eligible List. The veteran law which

as preference to veterans over civilians was passed in 1863.

BY MR. SHEPARD: Q. Was there any parity between the case of Mr. Hardenberg's predecessor and Mr. Hardenberg, so far as that provision is concerned?

A. Yes; but I think Mr. Hardenberg made his appointments entirely outside of the Civil Service Regulations.

A. And without warrant of law?

A. Which was made, I suppose, as his predecessor did.

A. But you don't know of any warrant of law for that?

A. No.

BY MR. GREENE: Q. You found applications for various appointments on file when you entered this office in January, 1886, didn't you?

A. Yes, sir.

A. And applications are filed from time to time by persons who want positions in the different departments?

A. They are.

A. And, as I understand, it is a rule, and that the rule is served, to serve notices upon any applicants who have any particular positions, and upon all applicants for positions in an examination is to be had of that class?

A. Yes, sir.

A. And how long is that notice served before the examination?

A. A day or two days before the examination takes place is notified to attend.

A. So that really all who are applicants do receive a personal notice besides the notice that is put in the newspapers?

A. Yes, sir.

BY MR. SHEPARD: Q. That is a precaution, as I understood it, to those who have actually filed their applications?

A. Yes.

A. That does not touch the question of the publication of the fact that such a position is to be filled?

A. No, sir.

BY CHAIRMAN BACON: Q. Is there an examination ever returned?

A. After it commences ?

Q. From the date named in the advertisement ?

A. Once or twice it has been. We have adjourned on account of some of the Commissioners being sick, I think once or twice.

Q. Adjourned to a day certain ?

A. No, sir ; it has been indefinite. Sometimes, for instance, we receive instructions from the head of a department that he wants an examination for such and such a position. Well, we make preparations for it ; and afterwards we find out that he doesn't care to have anybody fill the position, but he can get along without it, and so we postpone it.

Q. Is there a new notice sent out for the adjournment day to all of the applicants ?

A. No ; not until we hold the examination ; and then we notify all who have applications in.

Q. You notify them all ?

A. All those who have applications in.

BY MR. GREENE : Q. Is there not, under Rule or Regulation 20, a right, where there are special attainments required of persons to fill places, power given to you to make up a special list ?

A. Yes, sir.

Q. And these appointments in the Collector's office were not permanent ?

A. No, sir.

Q. They were temporary appointments ?

A. Yes, sir.

Q. And of that character that it required special attainments in connection with the office as to the duties to be discharged there ?

A. Yes, sir ; special attainments.

Q. And instead of calling a new List, you took the papers, as I understand, of the old List and made an examination of them and made up a new List from the papers on file ?

A. Yes, sir.

Q. Of those who had passed examination ?

A. Yes, sir.

Q. And of those you found best qualified to fill those places?

A. Yes, sir.

Q. And you recommended them to the head of the department?

A. Yes, sir.

Q. And that is the way these appointments were made you have named?

A. Yes, sir.

Q. And how many veterans were on the List at that time?

A. About two veterans.

Q. You received this letter that is here of March 15, 1887, notifying you what to produce here, and what would be required of you?

A. Yes, sir.

Q. Will you let me see it?

A. Yes, sir. (The witness hands the letter to Mr. Greene.)

Q. You were asked in the second place in this letter to produce the names of the persons vouching for all persons actually appointed from Eligible Lists under Civil Service Regulations of Brooklyn during the year 1886, showing in separate tables those appointed on the one hand as veterans, and on the other hand those appointed not as veterans; you are also asked in this letter to give the names of the persons recommending them for 1886?

A. Yes, sir.

Q. And in the same communication you are asked to give the changes made in 1885 in Schedules A, B and D; do you know any reason why you are not asked in this letter to produce also the names of those who were appointed in 1885?

A. No, sir.

Q. Have you not been asked to do that?

A. No, sir.

Q. The papers are on file in your office?

A. They are.

Q. And they can be produced?

A. They can be produced.

Q. Will you produce them ?

A. It will take some time for me to make up the list.

Q. Will you make up the list ?

A. I will.

MR. SHEPARD: The list of 1885 is not long, is it, Mr. Evangelides ?

THE WITNESS: No, sir; it is not a long list. I can have it here to-morrow.

BY MR. SHEPARD: Q. Please look at page 71 of the Third Annual Report for 1886. I notice an Eligible List of bookkeepers specially qualified for the Department of Arrears; do you observe that ?

A. Yes, sir.

Q. Is it not the duty under the regulation which Judge Greene has read, when special qualifications are required, to prepare an Eligible List simply upon those special qualifications ?

A. No; not if you want an examination with special attainments. That examination was held on July 22.

Q. When special qualifications are required, as described by Judge Greene, is it not the duty to take the men in their order as to that special qualification, giving the veterans the preference which the law gives them, and treating the list made up in that way, according to the provisions of law ?

A. Yes; but the regulation also prescribes that where those special attainments are required, and the people on the Eligible List do not possess those attainments, a special examination should be held.

Q. But is there anything in the regulation which says that veterans upon those special lists shall not preserve their general rights ?

A. No, sir.

Q. There is nothing of that kind ?

A. No, sir.

Q. How many veterans have received temporary appointments; give their names, please ?

A. There are two veterans who have been appointed; no, three veterans; two clerks in Grade C, and one chain-man.

Q. Those you have given, already?

A. Yes.

Q. How many veterans have received temporary appointments?

A. Three veterans have received temporary appointments.

Q. What are the names?

A. One is Eugene Wipfler; he was appointed a clerk in grade A; and the other is Richard Cole, whose services have been dispensed with a few months ago, and their names replaced on the Eligible List.

Q. On which Eligible List?

A. Grade A.

Q. What page?

A. Page 26; Mr. Wipfler was appointed May 15th to the Department of Assessments; on July 10 his services were dispensed with, and his name was replaced on the Eligible List.

Q. Now, while Mr. Wipfler received a temporary appointment, and after he had been dismissed from his temporary appointment, were not selections made lower down the Eligible List to permanent places?

A. No, sir; there were no veterans appointed.

Q. T. A. Carroll was appointed, was he not, on the 2d day of August, to a permanent place?

A. Yes, sir.

Q. And was not that after Mr. Wipfler had been dismissed from his temporary appointment which you said as July 10, I think?

MR. ARNOLD: Is Carroll a veteran?

MR. SHEPARD: Carroll is a veteran.

A. I think I should have to refer to find out the date when Carroll was appointed.

Q. I have the date here as the 2d day of August, if you are willing to take that; Mr. Walradt has given that to me; give you any explanation of that?

A. It may be that at the time when I certified Mr. Carroll's name I did not get a notice of Mr. Wipfler's resignation or removal.

Q. Is it not the fact that men who were not veterans have,

upon this particular list of clerks, received permanent appointments, while Mr. Wipfler, a veteran, received only a temporary appointment?

A. Yes; it is so.

Q. Isn't it true that Mr. Kelly and Mr. Hennessey, Nos. 17 and 19, received permanent appointments, and that Mr. Wipfler, standing No. 3, received only a temporary appointment?

A. Yes; but when these men, Kelly and Hennessey, were certified Mr. Wipfler held an appointment; and I could not certify him. He was serving as temporary clerk.

BY MR. CUTLER: Q. Mr. Evangelides, when is the Civil List to be prepared; what month, and about what time of the month is it?

A. The 1st day of January.

Q. Who were in the office at the time the Civil List should have been prepared under the regulations in 1886; what Commissioners were then in office?

A. Ex-Mayor Low's Civil Service Commissioners.

Q. Did they instruct you to prepare it?

A. No.

Q. Is there any law requiring a Civil List to be prepared or published or printed, in 1886?

A. Yes, sir.

Q. Was there any increase in any of the Eligible Lists shortly before Mayor Low left office?

A. Eligible Lists?

Q. Yes; was there any increase, if any, of the Eligible Lists?

A. Yes, sir.

Q. There was? To what extent?

A. In clerks, policemen and firemen; a very large increase—very large.

Q. To a very considerable extent?

A. Very.

BY MR. SHEPARD: Q. Wont you look at the Second Annual Report of the Commission for 1885, and state the dates of the examinations held during the year—the dates

all the examinations held during the year, and what they were; I think there were fourteen in number?

.. Yes, sir. February 16, 1885; February 19, 1885.

Q. Give what they were for?

.. The first one, February 16, 1885, was for firemen; second, February 19, 1885, was for police surgeons; February 25, 1885, for mechanical engineers; April 20, for Inspectors of Street Grading and Paving; April 27, for stenographers and clerks; May 6, for patrolmen; June 15, for copyists and engrossers; November 10, interpreters; November 20, for clerks, Grade A; November 20, clerks, Grade B; November 20, clerks, Grade C; November 23, for patrolmen again. That is all, sir.

Q. How many eligible lists were made up in the last year, if you please, of the year 1885, during October, November and December, out of the fourteen?

.. Four.

Q. Four out of fourteen were made up in the last three months in the year?

.. Yes.

MR. GREENE: Have you got the number put on the Civil List in this way?

MR. SHEPARD. Will you prepare that, Mr. Evangelides?

MR. GREENE: But it shows that, doesn't it?

BY MR. SHEPARD: Q. Take it upon the basis Judge Greene has suggested. Give the number put upon the eligible lists in each one of those examinations?

A. The number, for instance, of clerks, November 20, 1885, was forty-seven. But out of this number you must make a deduction of names placed on this list from the previous eligible lists. You have to deduct from that twenty-three names.

Q. So that twenty-four were put upon that list at that time?

A. Yes, sir.

Q. Take the other examinations?

A. Take November 20, that was for clerks. There were twenty-one names there.

Q. How many new names?

A. Fourteen names.

Q. Leaving seventeen new names?

A. Yes, sir.

Q. And the other one, please?

A. The other ones were November 23, for policemen; eighty-five names, and from the old list there were ten names.

Q. Making seventy-five names added there?

A. Yes.

Q. Does it appear then that at the time that examination was had for policemen in the city of Brooklyn, the Eligible List was reduced to only ten names; does that appear there?

A. No, I don't think so.

Q. You have just said there were ten names from the old Eligible List?

A. Yes.

Q. That shows that the old Eligible List was reduced to ten names?

A. It was nearly exhausted.

Q. Won't you state as to the police force list, whether when it is reduced to ten names is it not high time to have another list?

A. Yes.

Q. So you see nothing to criticise in the increase of seventy-five names at that time, when the Eligible List was reduced to ten names?

A. I do not.

Q. Won't you go to the other Eligible List in November, and give all in November?

A. I have given them all.

Q. I understand you to say that the net difference to the Eligible Lists in the last three months of 1885 consisted, upon the clerk list, of twenty-four, and, upon another clerk's list, of seventeen, and upon a list of patrolmen, of seventy-five?

A. Yes, sir.

Q. That is accurate?

A. Yes, sir.

Q. Now there was a fourth, was there not?

A. A small one.

Q. Just give it, even if it be small?

A. November 10, an examination for interpreters.

Q. How many new names were added there?

A. Two new names.

Q. Then the twenty-four names upon the one clerk list, fifteen upon the other clerk list, and the two there, making in all forty-three, was the entire addition to the Eligible Lists in the last three months of 1885, excluding policemen?

A. Yes.

Q. And I understand you to say that when the Eligible List of policemen is reduced to ten, it is high time to have another examination?

A. Yes; because there are a good many resignations, retirements and so on.

Q. You have spoken of the printing of the Civil List; it is prescribed by Regulation 36 that the Civil List shall actually printed?

A. Yes.

Q. What is the language referring to the printing?

A. It speaks about preparing.

BY MR. CUTLER: Q. I asked you a while ago whether the 36th Regulation there was anything about printing?

Q. No, sir; there is nothing about printing.

BY MR. SHEPARD: Q. Look at the regulation and state what time the List is required to be prepared?

A. The beginning of each calendar year.

Q. It is a long job to prepare the Eligible List, is it not, very long job at the beginning of the year?

A. I should say it was.

Q. Now refer to the report of the State Commission, begin at the clause relating to the printed Regulation 43, and say whether I read correctly what is there said by the said Commission: "The proposed amendment to Printed Regulation XLIII annuls the existing Eligible Lists and pending applications for examination. No reason has

been assigned for annulling the applications for examination, and the only reason urged for annulling the eligible lists is that these lists were largely increased shortly before the close of the last city administration. The extent of this increase appears by the papers submitted to have been less than one hundred for the entire public service of Brooklyn, consisting of upwards of one thousand positions in the competitive schedule.

"Assuming the increase to be as stated, it does not indicate a disposition to swell unreasonably the eligible lists, or to embarrass the successors of the old officials. In fact, it is the duty of those charged with the execution of the Civil Service Act and Regulations to have in existence at all times eligible lists with a reasonable number of names, sufficient at least to meet all the usual demands of the public service." That is read correctly, is it not?

A. Yes, sir.

Q. When the State Commission speak of there being on thousand positions in the competitive schedule they were in error, were they not?

A. Yes, sir.

Q. In point of fact that should have been about sixteen hundred?

A. Sixteen hundred or seventeen hundred.

BY MR. ARNOLD: Q. You said these persons who were appointed to positions in the Tax Collector's office were appointed on account of special attainments, and that they were temporary appointments, How many were appointed?

A. Nine or ten, I think.

Q. When?

A. Last December; the latter part of November.

Q. They were appointments purely of a temporary character?

A. Yes, sir.

Q. How many of them have been discharged?

A. All of them.

Q. And when?

A. The latter part of December.

Q. So that they were appointed for how many days, about ?

A. For a month and a half, or something like that.

By CHAIRMAN BACON : Q. Can you tell how many of those names on the Eligible List at the end of 1885 have received appointments in 1886 ?

A. You could tell it by referring to our Annual Report.

Q. Can you tell us ?

A. Not extemporaneously. I must look to tell you.

Q. About what proportion of them ?

A. If you wish me, I will make you a list.

Q. I wish you would ?

A. I will.

(At this point in the proceedings, one of the Civil Service Commissioners, Dr. Paul H. Kretzchmar, addressed the Committee as follows:)

Mr. KRETZCHMAR : Gentlemen of the Committee, you have had upon the stand the President of the Civil Service Commission and also the secretary or clerk of the Commission. I am one of the present Civil Service Commissioners, and I think, if you are interested to investigate and find out about this Commission, one of the active men on the Commission may be able to give you such information as will lead you to find out the truths about the matters, which have been insinuated here or have been touched on very lightly. I think it will be in the interest of fairness to place me on the stand.

CHAIRMAN BACON : We will leave that to the attorneys, Dr. Kretzchmar.

Mr. SHEPARD : I should be very glad if Dr. Kretzchmar would prepare and present here everything that he would desire to lay before us. But of course the order of examination for the day has been carefully arranged, and it may be difficult for us to interrupt it and permit him to go on the stand. If Dr. Kretzchmar will do that there will be no objection to his spreading his statement upon the record ; or, as my associate, Mr. Goodrich, suggests, there will be no objection to examining him afterwards.

Dr. KRETZCHMAR: Then I will make a statement tomorrow, probably. Is that it?

Mr. SHEPARD: If you will be kind enough to prepare anything that you desire, it can be spread upon the record, and I cannot at present see any objection to an actual examination.

Arthur E. Walradt, being duly sworn as a witness, testifies as follows:

BY MR. SHEPARD: Q. You are a lawyer?

A. Yes, sir.

Q. Practising law at 35 Wall street in the city of New York?

A. Yes, sir.

Q. And, in the employ of the Committee have you with the aid of Mr. Evangelides made an examination of portions of the Civil Service Records?

A. I have.

Q. Have you prepared a schedule, showing in every case, the published notice given of the different examinations held during 1886?

A. I have.

Q. Showing the date of the examination, the subject of the examination, the date on or before which there must be filed the application, the number of days' notice given, the intervening Sundays or holidays, and the number of applicants examined?

A. Yes, sir.

Q. Is the paper you now have such a schedule?

A. Yes, sir.

Mr. SHEPARD: With the permission of the Committee, I will have that printed.

Mr. GREEN: Mr. Evangelides testified with regard to a copy of it, did he not?

Mr. SHEPARD: This is the same paper.

(The statement referred to, being in tabular form, is printed and annexed to the testimony of the witness now on the stand, Mr. Walradt.)

Q Using the pencil memoranda which Mr. Evangelides used here, give the number of examinations out of the sixty-nine of which four days' notice was given?

A Eight.

Q The number for which there were three days' notice given?

A Thirty-one.

Q The number for which two days' notice was given?

A Twenty.

Q The number for which one day's notice was given?

A Nine.

Q Now deduct, please. Sundays and holidays, and give out of the sixty-nine examination the number for which four days' notice were given?

A One.

Q The number for which three days' notice were given?

A Fourteen.

Q For which two days' notice were given?

A Thirty six.

Q The number for which one day's notice was given?

A Seventeen.

Q Have you prepared a partial statement showing the names of candidates who actually received appointments and names of their vouchers?

A I have.

Q Are these papers which you now produce such a list?

A Those are.

Q Have you yet gone back to 1885?

A I have not.

Q Will you please do so for 1885 and 1884, since the creation of the Eligible List, and produce that as part of your testimony to-day, if you can do so?

A Yes.

The following is a list of appointments and vouchers, as prepared and read in evidence by Mr. Walradt :

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By MR. SHEPARD: Q. Have you made a table showing the number of appointments made upon the recommendation of each of a number of citizens of Brooklyn?

A. I have.

Q. Will you please read that schedule from the beginning, stating opposite the name of each citizen the number of appointments made from each Civil List upon such recommendation?

A. I should first say that this does not include any appointments of policemen; all of the appointments that are noted here are for other than that of policemen.

Q. In the Police Department appointments have been made pretty steadily in the actual order upon the Eligible List for that Department?

A. I think almost entirely.

Q. So that the spirit of the law in the Police Department appears to have been steadfastly observed, so far as the record shows?

A. It does.

Q. And this list does not include the Police Department?

A. No, sir ; it does not.

Q. Please read the statement showing the number of appointments made upon the recommendation of each of a number of citizens of Brooklyn, as set out in the table of which you have testified ?

(At this point the witness read the paper. It afterwards appearing that the statement had not been made up so as to fully set out all that was desired and intended by counsel and the Committee, it is here omitted from the record, the witness being directed, at a later stage of the examination, to prepare and produce a statement made up according to directions given later in the examination.)

Q. Is that complete for 1886 ?

A. Not absolutely complete ; I have run through, as best I could, the list of vouchers, and I know that all that appear there have been vouched for by the men against whose names are there written, but, of course, in the examination made there may be other men who have vouched for the same applicants.

Q. So far as you have gone it is intended to cover all the appointments made ?

A. Yes, sir.

Q. Please complete the list, commencing with the establishment of the Regulation in 1884, and bringing it down to this year ?

A. I will do so.

By MR. GREENE. Q. Were you requested to make a list including anything more than 1886 ?

A. I was not.

Q. From whom did the request come ?

A. From the counsel to the Committee.

Q. Do you know which Hugh McLaughlin is referred to in that list ; whether it is the Under Sheriff or not ?

A. It is the Under Sheriff in each case.

Q. Were there other persons recommending these made appointees, or were these the single ones ?

A. In all cases there were others.

Q. In all cases there were others recommending the appointment?

A. Yes, sir.

Q. How many would recommend the same person generally?

A. Well, it varies; generally the number is three to five; it is never more than five, and I think it is never less than three, and is between those two numbers.

Q. Have you given the names of every person that recommends these appointees?

A. On this paper that I just submitted?

Q. Yes.

A. No.

Q. Why haven't you done that?

A. Because this is not a list of the vouchers of the people who are appointed; it is simply a list of the number of times that certain men vouched for applicants who were appointed.

Q. Then it doesn't necessarily follow that they were appointed on their special recommendation, does it?

A. It does not.

Q. They may have been appointed on the recommendation of the other persons who signed the application as well as these?

A. It may have been.

Q. Then it is not a correct statement to set before the people as if appointments were made specially upon the application of these men?

A. No.

BY MR. SHEPARD: Q. Do I understand that this paper gives the number of recommendations made by every citizen who has joined in recommendations?

A. This paper that I have read?

Q. Yes?

A. No.

Q. That was my intention in making the request. Please make a paper showing the number of citizens who have at any time made any recommendation?

A. It would take about three days to make it.

Q. Please do so ; I will not ask that this paper be printed that you have presented here until it gives the names from beginning to end. It must contain the name of every citizen from the beginning, even if they vouched only once; will you make that list?

A. Yes, sir.

Q. You have taken, as I understand, the names of those who have vouched a number of times?

A. I have taken the number of those who appeared to have vouched more than three times.

Q. Have you taken all who have vouched more than three times?

A. I have attempted to do so, but I cannot be positive in stating that that is absolutely full.

Q. Will you prepare and present here a paper stating the number and names of persons who have vouched for applicants who have been appointed?

A. Yes, sir.

MR. SHEPARD: I think that with the exception of these lists which Mr. Walraedt is to produce, it is desirable to close this subject now. I think that if Dr. Kretzchmar is ready to go on the stand it is better that he should say whatever he wishes to say now. If he is ready to do so we shall be very glad to have it done now.

Dr. Paul H. Kretzchmar, being duly sworn, says :

MR. COLE: Dr. Kretzchmar, will you please be as brief as possible in your statement?

MR. SHEPARD: I do not really know, Dr. Kretzchmar, what it is that you wish to say ; but say anything that in your opinion will advise the Committee upon this matter.

THE WITNESS: I have, of course, no prepared statement to make. But as I heard the questions put to Mr. Evangelides, it seemed to me that certain points were either intentionally or unintentionally not touched upon. Great stress has been laid upon certain changes which had been

made by the request of his Honor, Mayor Whitney, in the regulations.

No attention has been paid to one important change which has been made at the request of his Honor; that is to the change that the Eligible Lists should only stand for one year. The old regulations read, the Eligible Lists are good for two years. For instance, a policeman or a fireman who had been examined in 1885, in November, would be entitled to appointment until November, 1887, without further physical examination or anything else, and the city would be liable in case of his sickness or death, to pay him or his survivors a pension. No insurance company would take such a risk as that, and no business man of good executive ability would employ people, under similar circumstances, upon an examination made two years previously in regard to the physical condition of the applicant.

I wish to state to the Committee that a number of examination were held where same candidates had previously appeared before the Civil Service Commissioners appointed by Mayor Whitney as had appeared before the Commissioners appointed by Mayor Low. I now remember four names of medical gentleman who thus appeared. I wish to state that during the examination the Commissioners do not know the names of the persons they have examined, but they only know them by number. Four or five medical gentlemen having appeared before the old Commission, reported for examination before the new Commission; and although the new Commission did not know their names and did not know their former standing or grading, yet when we completed the examination we found that there was not a variation of one degree in the grading of all those who appeared the second time for examination. It is certainly in the interest of fairness to show that the intention of the present Commissioners, as well as the former Commissioners, is to give the candidates a fair rating in true accordance with the examination.

Now in regard to the Park Commission: At a meeting of the Civil Service Commission it was I who brought the matter to the attention of the Commission, and developed the fact that under the old Civil Service Commission and

under the old Park Commission, during the entire existence of the old Civil Service Commission, there had never been one examination held for any employee of the Park Department.

BY MR. GREENE: Q. During 1884 and 1885?

A. During the entire years of 1884 and 1885, both the old Park Commission and the old Civil Service Commission evaded the law.

Q. I wish further to state that at all times when examinations were held it was strictly adhered to that the Commissioners never knew until we were entirely through with the examination who the candidates were, nor did we ever know who vouched for their character; and when the question comes to the appointments, certainly no blame can rest upon the Commissioners, because at no time were they aware of the fact who vouched for these successful candidates who appear upon the lists.

Only one more statement, and that is this: That in the first Annual Report of the Civil Service Commission, at the head of the first Eligible List, before being signed by Mr. Shephard, Mr. Doty and the other Commissioners, appears the following note:

"It may seem peculiar that frequently names have been selected for appointment, not in the order in which they appear on the list. This may be explained by the fact that either a candidate may have refused appointment, or by the fact that the appointing power has the right and exercised the right to select any one out of the first three names."

THE WITNESS: I only wish to call attention to that fact, because it had been brought out, and it appeared as if that previously had not been observed: as if previously the appointing power had taken the list from the beginning and gone right down.

The last statement would be that the appointing power during the last year, not only as Mr. Shephard has suggested, carried out the exact letter and spirit of the law in regard to the policemen, but that in regard to firemen, they

not even held an examination, and that they appointed of the 160 men who appeared on the old list every one—one by one—just as they came before them.

It has been said that the comparatively small number of candidates appeared on account of short notices given. I wish to state that in the City of New York last year, where there were 273 removals they had 1,241 candidates; in the City of Brooklyn where there was 173 removals we had 1,245 candidates; and we had four more candidates, therefore, in Brooklyn than in New York during that time. Have you any questions, Mr. Shepard?

MR. SHEPARD: If you please.

By MR. SHEPARD: Q. You speak of the names of the vouchers not being known; do you not mark the testimonials of the different candidates?

A. We do not mark the testimonials of the candidates until we are through with their examination.

Q. Do you not mark the testimonials of the candidates before they are finally marked upon the examination—the mark which determines the position on the eligible list which is given them.

A. For instance, with the examination for searcher, we would grade a candidate as follows: the best possible out of 100 would be, 40 for the written examination, 25 for an oral examination, 10 for previous experience, and 25 for character.

Q. Character means the testimonials?

A. Yes, sir; but we would have a written examination and the oral examination and all certificates as to experience; we would go over this before we looked at their testimonials, because we don't want to know their names until we come to the point that we have to know them.

Q. The fact is, that before the final rating—before the whole rating is given, the testimonials have been examined; that is so, is it not?

A. That is so.

Q. And in rating the testimonials it is impossible, is it not, to avoid knowing not only the names of those who

vouch for the candidate, but the name of the candidate himself?

A. After all the other examinations have been rated—after all regarding the candidate is done up to the last 25, of course we have to see the name and the people who vouched.

Q. But the marking upon the testimonials has just as serious an effect upon the standing of the man as the marking upon anything else, does it not; depending, of course, upon the amount of rating given to the testimonial and the amount given to the technical examination?

A. The testimonials have very little weight, as far as the signature is concerned. It is impossible for the Civil Service Commissioners to know every citizen personally and to know how much value is to be given to his testimony. We send to every citizen who vouches for a candidate a list of questions, and if he refuses to answer those questions then his original voucher don't amount to much with the Commissioners. But if he afterwards answers those particular questions—How long have you known the candidate; when did you make his acquaintance; what do you know about his associates; is he a temperate man; do you know his employer, and all those questions, if we receive a voucher of that kind then we do not look much at the signature, but we count the answers as far as they are explicit, and we decide in regard to the character of the applicant upon that.

Q. But then it is the fact, is it not, that the testimonials showing the names of the backers of the man, or the names of the vouchers of the man, and the names of the men themselves, are marked just the same as the technical knowledge of the candidate upon the subject is marked—they are marked upon the same scheme, are they not?

A. Yes, they are marked; that is the only way we can mark them.

Q. And that marking enters into the final percentage that he gets in the Eligible List precisely as the final result of the marking as to his knowledge of the technical subject?

A. Yes. I only want to repeat, as far as the Commissioners are concerned, and as far as I am aware, that th

times of the persons or their political standing at no time had any influence in the rating.

Q. Right on that point: as you understand the duty of the Civil Service Commissioners and their practice, so far as you know it, where the men vouching for a candidate appear to have only a political knowledge of the men, and not to have the amount of knowledge which an employer has of the man, political vouchers in such cases are rated low, are they not, and the other kind of vouchers are rated high—I mean, as a matter of practice?

A. We have very seldom such an answer as, “I know the candidate politically.” I don’t know that I ever saw that answer.

Q. I don’t mean that; but I mean the answers given by the vouchers, especially when the voucher is asked where he had made the acquaintance, and under what circumstances he has had the acquaintance of the candidate. It so unfrequently appears that the man has had simply a political knowledge of the candidate, does it not?

A. It does not appear so on the voucher; it may be the case.

Q. Isn’t it very frequently inferable from the voucher?

A. Well, we take the statements as they appear over the signature of those citizens who vouch for the man. I don’t think it is the intention of the law or the government to go back of it and try to find whether political reasons influence men who vouch for candidates, or not.

Q. I don’t think I make myself clear; but is it not a fact that where, on the face of the voucher, it appears that the knowledge the man vouching has is simply the amount of knowledge he gets of the man from his Ward Association or any other political association—has it not been the practice, and justly so, too, I think, to rate that recommendation much lower than the recommendation of the man who has had the candidate in his employ and has had a business knowledge of him or a knowledge of him in his trade?

A. I have to state again that I don’t remember ever having seen a voucher where a person has said: “I know the man politically;” or, “I made the acquaintance of the man

vouch for the candidate, but the name of the candidate himself?

A. After all the other examinations have been rated—after all regarding the candidate is done up to the last 25, of course we have to see the name and the people who vouched.

Q. But the marking upon the testimonials has just as serious an effect upon the standing of the man as the marking upon anything else, does it not; depending, of course, upon the amount of rating given to the testimonial and the amount given to the technical examination?

A. The testimonials have very little weight, as far as the signature is concerned. It is impossible for the Civil Service Commissioners to know every citizen personally and to know how much value is to be given to his testimony. We send to every citizen who vouches for a candidate a list of questions, and if he refuses to answer those questions then his original voucher don't amount to much with the Commissioners. But if he afterwards answers those particular questions—How long have you known the candidate; when did you make his acquaintance; what do you know about his associates; is he a temperate man; do you know his employer, and all those questions, if we receive a voucher of that kind then we do not look much at the signature, but we count the answers as far as they are explicit, and we decide in regard to the character of the applicant upon that.

Q. But then it is the fact, is it not, that the testimonials showing the names of the backers of the man, or the names of the vouchers of the man, and the names of the men themselves, are marked just the same as the technical knowledge of the candidate upon the subject is marked—they are marked upon the same scheme, are they not?

A. Yes, they are marked; that is the only way we can mark them.

Q. And that marking enters into the final percentage that he gets in the Eligible List precisely as the final result of the marking as to his knowledge of the technical subject?

A. Yes. I only want to repeat, as far as the Commissioners are concerned, and as far as I am aware, that the

names of the persons or their political standing at no time had any influence in the rating.

Q. Right on that point: as you understand the duty of the Civil Service Commissioners and their practice, so far as you know it, where the men vouching for a candidate appear to have only a political knowledge of the men, and not to have the amount of knowledge which an employer has of the man, political vouchers in such cases are rated low, are they not, and the other kind of vouchers are rated high—I mean, as a matter of practice?

A. We have very seldom such an answer as, “I know the candidate politically.” I don’t know that I ever saw that answer.

Q. I don’t mean that; but I mean the answers given by the vouchers, especially when the voucher is asked where he had made the acquaintance, and under what circumstances he has had the acquaintance of the candidate. It not unfrequently appears that the man has had simply a political knowledge of the candidate, does it not?

A. It does not appear so on the voucher; it may be the fact.

Q. Isn’t it very frequently inferable from the voucher?

A. Well, we take the statements as they appear over the signature of those citizens who vouch for the man. I don’t think it is the intention of the law or the government to go back of it and try to find whether political reasons influence men who vouch for candidates, or not.

Q. I don’t think I make myself clear; but is it not a fact that where, on the face of the voucher, it appears that the knowledge the man vouching has is simply the amount of knowledge he gets of the man in his Ward Association or any other political association—has it not been the practice, and justly so, too, I think, to rate that recommendation much lower than the recommendation of the man who has had the candidate in his employ and has had a business knowledge of him or a knowledge of him in his trade?

A. I have to state again that I don’t remember ever having seen a voucher where a person has said: “I know the man politically;” or, “I made the acquaintance of the man

in the Ward organization ;" or, "I met him in the Ward meetings."

BY CHAIRMAN BACON : Q. How high a percentage does a man require to have in order to get upon the Civil List ?

A. 70.

Q. He would have to be nearly perfect in the other departments if he were marked zero in character, in order to get him upon that Civil List ?

A. Anybody marked zero on character, that would alone exclude him from the Eligible List.

Q. What would make him zero in character ; if he was recommended by four strangers to you, how would you mark him ?

A. If no one of those citizens who signed his original application would afterwards feel competent to answer the pertinent question which we ask afterwards, and if we would not receive a voucher from any one signing his original application, that man's character would go for zero and he would not go upon the Eligible List.

BY MR. GREENE : Q. Those questions are put in writing, and are answered in writing ?

A. They are printed questions, and the answers are written.

BY CHAIRMAN BACON : Q. Suppose all the questions are answered satisfactorily, and yet by gentlemen with whom you are not acquainted ; how would you rate him in character ?

A. If they are all answered satisfactorily, and they were gentlemen we are acquainted with, we give the candidates full credit for character.

BY MR. SHEPARD : Q. Won't you tell us how the matter of the omission of the former Civil Service Commission and the former Park Commission to obey the law with regard to Park Keepers was drawn to your attention ?

A. I personally heard from a gentleman by the name of Foster- I heard it personally by interview, that he expected to be a Park Keeper. Hearing that, I expected that there should be an examination of Park Keepers, but I

heard afterwards that the Park Commission had appointed keepers without the examination.

Q. About what part of 1886, was that?

A. That was about in May, 1886, or in June.

Q. It was about in June, was it not?

A. Yes; I heard that this man expected to go on the Park about in June.

Q. And that was about four or five months after you had become a Civil Service Commissioner?

A. Yes.

Q. During the four or five months, up to that time had any step of any kind been taken to remove this abuse in the Park Commission, so far as you know?

A. So far as I know, we had no knowledge of any such gross abuse.

Q. The reason you had not taken any measures to remedy any abuse until June, 1886, was that you had not known of it?

A. No, that was the reason. As soon as we learned of it we took steps.

Q. So far as you know, had the preceding Commission learned of such abuse down to that time?

A. As under the preceding commission the entire list of positions had been made, I should think that they would have seen them; the park keepers and different other employees of the Park Department were placed in certain schedules and certain classes and certain grades, and yet they did not pay any attention to the Civil Service examination.

Q. But you had that all before you during the four or five months you had been a Civil Service Commissioner, had you not? You had all the same information at your control, had you not?

A. Yes; during the four or five months we had the same information which the others had two years.

Q. The Chairman suggests that I ask you what you have to say as to the failure to publish the names of the appointees, the fact of their appointment and the names of the vouchers?

A. I simply have to say that we agree with the Presi-

dent of the Commission in stating that that was an omission which should certainly be criticised, and as soon as it was found on our part that that had not been done it was rectified early in January, 1887. I fully admit that that should have been done, because the law so prescribes.

Q. So that the record be accurate I will ask you: You spoke of the preceding Commissioners having served two years; do you know when they were appointed?

A. They were appointed during the year 1884.

Q. In the fall of that year they were appointed, were they not?

A. Some of them in the fall and some of them in May.

Q. But I mean after the present Civil Service regulations went into effect.

A. The present Civil Service Regulations first went into effect in August, 1884.

Q. September 15th, was it not, to be accurate?

A. Mayor Low published them in August.

Q. They took effect on the 15th of September?

A. Yes, I think so.

Q. And it was some time after that that the Commissioners were appointed?

A. Some had been appointed before that, Mr. Shepard and Mr. Rueger.

Q. But under a different system?

A. Yes.

Q. So that they served from some time in the autumn of 1884 until about the first of January, 1886?

A. Until about the 15th or 18th of January, 1886.

Q. So that you do not mean that it was two years?

A. During two years.

Q. During parts of two years? (No answer.)

Q. Have you any other explanation as to the shortness of the notices of examination than you have already given?

A. I have not said anything about that.

Q. I beg your pardon; what have you to say about that?

A. I think that the law does not prescribe any time to be given of public notice for the coming examinations. I believe that any candidate for public position has interest

nough in the affair to make his application there. After he has made his application he is notified personally of the time ; of the date of the examination ; and my experience has shown that most of the applications have been made long before a notice had been given to the public of examination and of the time when it would be held.

Q. How are citizens to know that vacancies occur which are to be filled ?

A. Anybody that has enough interest in the affair can go down to the Civil Service Commissioners' office and find out.

Q. Take, for instance, the keeper of the Municipal Building ; how often, in the natural course of events would a vacancy occur with that position ?

A. I wish to make my remarks with reference to that particular part of the Commission which interests me, and in which I take an active part. I am able to answer the Committee upon that.

Q. I find in examination for keepers of Municipal Buildings that three days' notice was given, which included a Sunday ; that one man placed upon the Eligible list, and, if I remember right (I will say this subject to correction,) that there was but one candidate ; do you mean to advise the Committee that citizens generally who might desire to be keeper of the Municipal Building, at a salary of \$1,200 a year, there being only one such place in the city to fill, that citizens generally could have the idea that a vacancy might occur, without any notice being given them ?

A. About this position that you refer to I know about as much as Mr. Shepard does, because it is not in the Committee to which I belong. I haven't any more knowledge about it than anybody outside. I only saw it in the report, and I couldn't give any information about it at all.

Q. Of this kind of positions of which there are only two or three in the City of Brooklyn, do you think that citizens generally ought to contemplate a vacancy as likely to happen, so as to file applications for the appointment without any notice that a vacancy is to occur ?

A. Anybody who has interest to receive an appointment by the City of Brooklyn will take enough interest to study

the afternoon papers and find an advertisement. I find that applicants for positions are willing to study the papers and do almost anything else to get the place.

Q. As I understand it, the applicants study the newspapers and, therefore, you think that the length of notice in the newspapers is not a matter of importance to the public?

A. There may be a difference of opinion on that subject!

Q. What is your opinion?

A. I think that three or four days' notice should be given.

Q. At least three or four days?

A. I think that would be a very good rule, to give three or four days.

Q. But don't you think that in every case notice of less than three or four days is not a fair notice, a sufficient notice; and I do not mean intentionally unfair, but my question is, a sufficient notice?

A. If you please to leave the intentional part out of the question, I think we would agree that one day's notice is not sufficient.

Q. Or two days?

A. Or two days. Give a man 36 hours to prepare all he wants to prepare, and I think that is too short a notice. You made a statement, or asked a question, some time ago whether it was not necessary for those who vouched for the candidate to go before a notary to swear to that voucher. Such is not the case.

Q. I asked that question of a former witness.

A. And you received from Mr. Preston the answer that they had to go to the notary and swear to the voucher.

Q. Mr. Preston was examined about that.

A. Yes, sir; but it is necessary for a man to go to three neighbors, or to persons living in the same house with him, to get him to sign.

Q. But the men to whom he goes to sign his application are the men whose testimony will be decisive as to one branch of his examination?

A. Yes.

Q. So that it is a matter of a great deal of importance for

a candidate for a Civil Service position to have men who will make a good exhibition when examined about what they know of him?

A. It is in his interest to get people who know him well.

By MR. GREENE: Q. Let me ask you one question: It is very usual for candidates who seek position in the civil service to go to men holding political positions for endorsement, isn't it?

A. That is so usual that in our last annual report we had made the statement that it would be advisable for candidates not to look for that. But it has been the habit and it is the habit now yet, to go to people who hold political positions.

Q. It always has been so?

A. Always.

Q. As supposing that they have more authority and more power?

A. That is the impression of the candidate.

MR. SHEPARD: I think it would be fair to the Civil Service Commission to include that part of their report (page 5 of the Report of 1886) which relates to that subject. I will read it:

"Another evil the Commissioners hope to see remedied soon. That is the practice of applicants securing the endorsements of none but those prominent in politics to their testimonials as to character. Experience has shown that men of all political parties are only too prone to sign any sort of document in order to escape further importunate solicitation. The practice is, unfortunately, not confined to politicians alone, and it would be highly beneficial to the civil service of the city and simplify the work of the Commissioners if men of every class would make it a practice to scrutinize all endorsements of personal character and fitness that they may be asked to sign. For some time past the Commissioners have attached little or no weight to the endorsement of a man known to them to recklessly affix his signature to everything of this nature."

BY MR. SHEPARD: Q. That is from your report is it not?

A. Yes, sir.

Q. And does the statement which you there make about the practice of applicants to secure the endorsements of none but those prominent in politics to their testimonials as to character, bear out your own experience?

A. I wouldn't say that they don't secure other citizens; but they are very apt to have a "good name," as they call it, on their application.

Q. That you have found in your examination of testimonials has been very much the case, have you not?

A. Yes, frequently.

Q. And it was so before you were Commissioner, was it not?

A. I think so; I so understood it.

Q. It has been a very common thing?

A. Yes.

BY CHAIRMAN BACON: Q. About what proportion of applicants go upon the Eligible List?

A. That is very difficult to answer. I mean that is a question no one can answer. But all those who pass the examination go upon the Eligible List.

Q. Can't you make a statement about the proportion of those who go upon the Eligible List?

A. No, sir.

MR. SHEPARD: I have a statement of it here. Of 1241 candidates, 681 passed the examination.

CHAIRMAN BACON: About 50 per cent. them.

MR. SHEPARD: About 60 per cent.

George Ricard Conner, being duly sworn as a witness, testifies :

By MR. SHEPARD : Q. Commissioner Conner, when did you take office as Commissioner of City Works ?

A. February 1st, 1886.

Q. And have served from that time to the present ?

A. Yes, sir.

Q. What are the bureaus of the City Works Department ?

A. There is the Bureau of Streets ; the Bureau of Ar-
ears ; the Bureau of Accounts ; the Engineers' Bureau ;
the Bureau of Water Rates. I think that comprises them
all.

Q. About how many employees are there in your Department ?

A. They vary from 300 to 600.

Q. Varying with the season of the year ?

A. Yes, sir.

Q. Larger in the summer time, when the laborers are
employed, than in the winter time ?

A. Yes, sir.

Q. Do you happen to know how many there are at the
present time ?

A. No, sir, I couldn't tell you.

Q. Are you able to tell us what the actual number in
your department was on the first of January last ?

A. Not without referring to records.

Q. Can you tell approximately ?

A. No, sir ; I cannot.

Q. Or approximately what the number in your depart-
ment was when you took office the first day of February,
1886 ?

A. Not without reference.

Q. To what extent did you make changes in the employ-
ees after you came into office on the first of February,
1886 ?

A. In how long a time do you mean ?

Q. Well, I mean from that time down to the end of 1886.

A. I can give you that ; a memorandum of all the changes in the whole year ; is that what you mean ?

Q. Yes.

A. There it is, and I wish you would read them, sir.

Q. You have prepared a schedule showing the changes in the positions within Schedule B of the competitive schedules ?

A. Yes, sir.

MR. SHEPARD : I will introduce it without reading it to the Committee.

(The paper is annexed hereto.)

Q. The recapitulation shows the number of employees as 187 ?

A. Yes, sir.

Q. The removals as 106 ?

A. Yes, sir.

Q. The appointments as 104 ?

A. Yes, sir.

Q. Besides, the removals, were their changes by death or resignation ?

A. No, sir ; that includes all Civil Service changes.

Q. The positions within the Department within Schedule A—do you know how many there are of those ?

A. I could not tell without reference.

Q. Can you approximate ?

A. No, sir.

Q. How many changes have taken place in the schedule ; within Schedule A ?

A. Probably a dozen.

Q. A dozen out of about how many ; can you tell ?

A. I cannot tell.

Q. You cannot, approximately ?

A. No, I could not attempt it.

Q. What course did you take when you entered upon the discharge of your duty as to the removal of your subordinates ?

A. I removed almost all the heads of the departments.

Q. As to the removal of others ?

A. In accordance with their fitness, in my judgment, I made changes.

Q. Do you mean that you removed none except those who were in your judgment unfit?

A. I haven't removed any except those.

Q. So that, in your judgment, every man you removed was unfit for the performance of his duties?

A. In my judgment, yes, sir.

Q. And in your judgment, I take it as a matter of course, that every one you put in his place was fit?

A. In my judgment; yes, sir.

Q. Did you require the resignations of your subordinates upon your entering upon your office?

A. Yes, sir; every one of them.

Q. You required them all to hand in their resignations in blank?

A. Yes, sir; no exceptions.

Q. And to what extent was that complied with?

A. With the exception of four or five.

Q. And those four or five you removed?

A. Yes, sir.

Q. And you removed them because they didn't resign?

A. Yes, sir; I removed them because I didn't think they were proper persons to occupy positions under my administration, because they were not in sympathy with the workings of my department.

Q. What do you mean by not being in sympathy with the workings of your department?

A. Why, they were not disposed to work to the advantage of the Department of Civil Works.

Q. In what respect?

A. They showed an indifference in regard to their giving me an opportunity to judge of their qualifications.

Q. You mean then that the respect in which they were unfit was that they declined to hand you their resignations?

A. Yes, sir.

Q. That is the point?

A. Yes, sir.

Q. So there was no occasion or opportunity for them to show their fitness for the discharge of their duties ?

Q. They did not give me an opportunity, as being strangers to me, to make an investigation with regard to their qualifications, and deeming that they were not disposed to work in harmony with the business interests of the department of City Works, I removed them.

Q. You had the power to remove any and all your subordinates ?

A. Yes, sir ; within thirty days.

Q. You had the power to remove any and all your subordinates after 30 days ?

A. I did for reasons.

Q. You had that power upon assigning any reasons that you pleased to give ?

A. No, sir.

Q. Explain to the Committee, Mr. Commissioner, how the fact that the man handed you his resignation enabled you to make examination of his fitness for the service of the City ?

A. It gave me sufficient time to judge whether or not it was to the advantage of the Department to keep him. All the changes that I made was to improve the condition of the Department. I wanted to make the Department more efficient than it was, and I have made it more so, as my Annual Report will show.

Q. How as to your Department after thirty days was up ; is it not the fact that you have the power to remove any employee at the present time ?

A. Oh, I have, yes, sir ; for cause.

Q. Well, but do you want to remove a man without cause at any time ?

A. No, I do not.

Q. Then inasmuch your desire only is to remove upon cause, you have all the power now that you had within thirty days, have you not ?

A. No, I have not.

Q. Tell the Committee what the difference is now ?

A. The difference is, I could make all the removals irrespective of who they were, or what they were, within thirty

ays ; I was the sole judge of their qualifications with regard to removing them.

Q. I am afraid I don't apprehend the reason. If I understand right, you can now remove upon cause?

A. Yes.

Q. And that you do not want to remove a man except upon cause?

A. I don't remove them.

Q. Excepting upon cause?

A. No.

Q. Why, then, can you not remove just as well now as you could within thirty days after your taking office?

A. You don't appear to comprehend me, or I don't appear to comprehend you, Mr. Shepard.

Q. Mere stupidity on my part, I have no doubt; but will you explain what you mean?

A. I could remove anybody within thirty days without reason.

BY MR. GREENE: Q. You mean without assigning any reason for it?

A. Yes, sir, without assigning any reason.

BY MR. SHEPARD: Q. Then the difficulty is about waiting after the thirty days, that you now have to give a reason for what you do—a public reason?

A. No, I don't have to give a public reason why.

Q. Can you remove a man now without giving a public reason?

A. Yes, sir.

Q. Then, again, I don't understand why you do not have the same power now that you had within thirty days?

A. For thirty days I didn't have to give any reason at all and I could remove without; I could exercise my judgment within thirty days with regard to removal. After thirty days I could exercise my judgment with regard to their efficiency and remove for cause.

Q. Do I understand you aright in understanding you to say that you can remove a man now without assigning a cause?

A. No, sir, I didn't say that I could.

private position, making the selection of men whom I knew personally to take charge of the heads of bureaus.

Q. But leaving out for the moment the heads of departments; you have testified here that you took the resignation of every employee in the Department?

A. Yes, sir.

Q. And held it from the time you went into the office?

A. Yes, sir.

Q. And I understand you, the reason you took it was in order to have it in your hands before the thirty days expired; am I right?

A. Yes, sir.

Q. In order to enable you to determine upon the competency of the men?

A. Yes, sir.

Q. Now I have understood you to say (I may be wrong) that no removal has been made by you except for reasons relating to the service of the city?

A. Yes, sir.

Q. That is to say, every removal made, whether within the thirty days or after the thirty days, has been because the efficiency of the municipal service required it?

A. No.

Q. Then for what reason have you removed men; leaving the heads of departments out?

A. I want you to divide that. For thirty days I could remove without cause; the law permitted me to do it, and I wanted the heads to be filled with heads that I knew. The others are strangers to me.

Q. Did you remove within thirty days none except heads of bureaus?

A. Yes, sir, some.

Q. Why?

A. I wanted to improve the efficiency of the office.

Q. Well, it was because they did not serve the city as well as your appointees would do?

A. In my judgment.

Q. Was not that a perfectly good and valid reason to assign for the change?

A. That is the reason I give now. That is the reason I entertained then.

Q. Why can't you do that as well now as you could before the thirty days expired?

A. Because the law doesn't allow it, and I keep within the pale of the law.

Q. Don't the law allow you to make any removal you please?

A. Not without cause.

Q. To whom must you assign the cause?

A. In my judgment.

Q. Alone?

A. Yes, sir; in my judgment.

Q. Do I understand you right or not to say that before the end of the thirty days you removed only for cause?

A. No, you don't.

Q. There was cause?

A. Some men I removed without cause.

Q. Without any reference to the service of the city one way or the other?

A. Yes, sir; before the expiration of the thirty days?

Q. Have you since the expiration of the thirty days, removed without cause?

A. No, sir.

Q. Since that they have been removed with cause?

A. Yes, sir.

Q. Have they been made upon the resignations procured by you before the thirty days were up?

A. Yes, sir; some of them.

Q. And have the resignations been accepted for cause?

A. No, sir.

Q. Couldn't you assign the reason or cause?

A. No, sir; I didn't, but I could.

Q. Why not?

A. I wasn't obliged to.

Q. Was there any good reason for not telling the people of Brooklyn why you made removals?

A. It was nobody's business; who was I to go to to tell.

Q. Whose business is it that you are transacting as Commissioner of City Works of Brooklyn ?

A. The city's business.

Q. Is it not the business of the city and of its citizens what you do as an official there in that office, as Commissioner of City Works ?

A. When I do anything wrong.

Q. When you do anything right it isn't their business; is that the distinction ?

A. I was the judge of that whether I am wrong or right, and I am held accountable.

Q. To the city and the citizens ?

A. Yes.

Q. What did you mean a moment ago, that as to these removals it was nobody's business ?

A. Well, I had nobody to give an account to. There is no particular person that I have got to give a reason to.

Q. Are you aware of the regulation prescribed by the Mayor of this city directing, that upon a removal after the first thirty days of your service, you should file your reason for your action, are you aware of that ?

A. All the reasons for my removals are on file with the Civil Service Office.

Q. When you have accepted a resignation have you stated the reason that induced you to accept the resignation; have you stated that they have resigned ?

A. I presume that is on file.

Q. In point of fact, is it on file ?

A. I don't know. I didn't make it myself; my clerk makes it.

Q. Has there been filed, in the usual practice, by you a reason when you have accepted one of these resignations which you got from your employees in 1886 ?

A. Yes, sir, every one is on file—the reasons.

Q. The reason for the acceptance of the resignation ?

A. Yes, sir.

Q. Where is it on file ?

A. In the Civil Service Office.

MR. GOODRICH: The witness mistakes you, Mr. Shepard.

THE WITNESS : No, I don't. He wants to know whether there is a reason for every one on file, and I say yes.

MR. GOODRICH : Only the reason before the thirty days, is the question.

THE WITNESS : No ; I understand after thirty days. No reason is called for before.

BY MR. SHEPARD : Q. I am asking about where you take resignations in blank of the men in your employ prior to the thirty days ?

A. Yes.

Q. Have you accepted many of those resignations since the thirty days expired ?

A. I couldn't tell.

Q. Have you accepted many ?

A. Yes.

Q. When you accepted them after the thirty days, have you filed a reason ?

A. Yes.

Q. A reason for the removal after the thirty days ?

A. Yes.

Q. Is that on file with the Civil Service Commissioners ?

A. Yes.

Q. And that gives fairly and truly the reason ?

A. Yes.

Q. Commissioner, have you concerned yourself at all with the political opinions of the men whom you have removed ?

A. No, sir ; I don't take politics into consideration in an application.

Q. I understand, then, that the party relations of the men whom you found in the department when you went there did not affect your judgment one iota in your removals which you made ?

A. I didn't make no changes for political reasons.

Q. Do I understand you, Commissioner, that you removed Democrats and Republicans alike ?

A. I removed every one I thought any to the advantage of the department. I didn't take his politics into consideration.

Q. Did you remove Republicans and Democrats alike?

A. I didn't enquire into the politics of the men, so I couldn't tell.

Q. Are you able to tell—

A. I am unable to tell the man's politics.

Q. So far as you acted, did you undertake to treat Republicans and Democrats exactly the same?

A. I didn't go into political considerations.

Q. So far as you acted, did you undertake to treat Republicans and Democrats precisely the same?

A. I can't answer it any other way.

Q. You have intended, then, so far as the treatment of the subordinates that you found in office when you came there is concerned—you intended to treat Democrats and Republicans precisely the same?

A. No difference.

Q. No difference whatever?

A. No.

Q. Has that been your rule with relation to making your appointments to office?

A. No, sir; I don't take politics into consideration. I have received those sent to me, outside of the men that I selected within the thirty days.

Q. How many men did you select within the thirty days?

A. Well, the heads of the bureaus; probably a dozen.

Q. A dozen, including the heads?

A. No, sir; the heads of the bureaus, whatever the number is.

Q. But are there none that you removed within the thirty days except the heads of bureaus?

A. Yes, sir.

Q. How many besides?

A. I can't tell without reference.

Q. Can you tell whether there are many or few?

A. I couldn't tell how many.

Q. Can you have a statement made up showing that?

A. I might.

Q. Your Mr. Northrup can make up such a statement?

A. Yes, sir.

Q. The number 106 on this memorandum states the number of resignations that you have accepted ?

A. Yes, sir.

Q. And in your memoranda you have described the acceptance of those resignations as being removals ?

A. Yes, sir.

Q. And in your judgment they were tantamount to removals ?

A. Accepting a resignation is removal.

Q. And in your judgment they were removals ?

A. Yes, sir.

Q. State to the Committee whether in making the assignments of new men to the places made vacant by these removals you have had regard to the political opinions or affiliations of those men ?

A. No, sir ; I made applications to the Civil Service Commissioners, and they sent men to select from.

Q. And you have selected from the names sent you impartially, without reference to political considerations ?

A. Yes, sir.

Q. Solely ?

A. Solely the efficiency of them, yes, sir.

Q. And you state without reservation—

A. I know what I am saying.

Q. I haven't finished my question. You state without reservation you haven't made appointments outside of the head of the bureaus, having any reference whatever to political opinions or relations of the men you have appointed ?

A. No, sir.

Q. And that you say without any kind of reservation ?

A. Oh, yes.

Q. And you say the same thing as to your removals ?

A. Yes, sir.

Q. That you have done absolutely without reference to that consideration ?

A. Yes, sir.

Q. Then if I understand you aright you have steadily complied with the provision of Regulation XXXII of the Civil Service Regulations prescribed under the law, which says: "Neither shall political opinions be discovered or

considered by the Commission in their examinations, or considered by the appointing officer in determining his selection among candidates certified for appointment?"

A. I stated yes.

Q. You have complied with that fully in the spirit and in the letter?

A. Yes, sir; in my judgment.

Q. And you have regarded that as a duty of the officers occupying such places as yours, to comply with that regulation?

A. I cannot do any other way.

Q. But you have regarded it as a duty to comply with that?

A. As I read the law, I have complied with it.

Q. And as you read the law——

A. I have made no evasion, if that is what you want. I have no disposition to evade it, and I have acted in the spirit of it.

Q. And as you understand the spirit and the letter of the law, you are not entitled to make any distinction for political considerations?

A. No, sir.

Q. And you have complied with that?

A. Yes, sir.

Q. Describe to the Committee the process followed by you in making selection from the Eligible Lists?

A. I have a great many applications with endorsements of people who were in the Eligible Lists, and by what I could gain from the applications and from the recommendations, when these names would be submitted to me, I would base my judgment upon that. Where I have no knowledge, if it was a mechanic or a fireman, I would then have the three men before me and submit them to a mechanical examination by the heads of the proper departments, so as to have the men qualify in regard to their efficiency.

Q. You don't quite get my question; I will try to make it more careful; if there is a vacancy, you make a request that the Commission will send you names?

A. Yes, sir.

Q. Those three names that are sent, you have then to make a selection from ?

A. One of the three.

Q. And with the certificate comes to you the names of those who vouched for the three different men ?

A. Yes, sir.

Q. And you examined the vouchers ?

A. Yes, sir.

Q. What do you then do after that in making up your mind ?

A. I exercise my judgment. Sometimes I don't know any of the persons, and in the majority of cases I don't know, and then I have to exercise my judgment in the selection.

Q. Upon what do you base that judgment ?

A. Upon the recommendations, or upon mere matter of chance. It is a mere matter of chance.

Q. A testimonial sent you from the Civil Service Commissioners ?

A. Yes, sir ; and in the absence of knowledge, where I don't know the parties (and I may have some five or six hundred names on file), then I have to act on my own judgment. Sometimes on reading the applications, I know the parties who endorse them and sometimes I don't.

Q. As I understand, there are on file with your department a large number of applications for these places ?

A. Yes, sir.

Q. And those places have the names of citizens as vouchers ?

A. Yes, sir.

Q. Persons recommending the applicants ?

A. Yes, sir.

Q. Are those kept regularly on file ?

A. No ; those are my private matters, merely.

Q. Where are they now ?

A. In my office.

Q. Commissioner of City Works ?

A. Yes, sir.

Q. Are they kept tabulated there ?

A. Yes, sir.

Q. They are in the care of which employee of yours, are those recommendations?

A. Those are in my deputy's care.

Q. What is his name?

A. Mr. Murtha.

Q. James A. Murtha?

A. Yes, sir.

Q. And he has charge of them now?

A. Yes, sir.

Q. Then do I understand that when these names are certified to you from the Civil Service Commission, you turn to those testimonials which you have there?

A. The recommendations and applications.

Q. Is it a fact that you make appointments of men when there are no petitions in your office on file?

A. Oh, there is very many appointments have been made, as I told you, that are strangers that I don't know them.

Q. Is there a rule about it; is that usually the case?

A. No, no rule.

Q. Do you know whether or not in the majority of cases you have on file before you make the appointments, in your own office, recommendations or testimonials for the man that you appoint?

A. Oh, no; there is a small percentage of them.

Q. Only a small percentage?

A. Yes.

Q. When the certificates have come to you from the Civil Service Commission have you never known the politics of the men who have acted as endorsers?

A. I should not know, sir.

Q. Have you in fact never known the politics of the endorsers?

A. Oh, yes; I have of some.

Q. Has it been a large number?

A. That I couldn't answer, whether it was a large number or not.

Q. We have had here this morning a table showing the recommendations by the citizens of Brooklyn who have recommended more than three times, with the exception

perhaps of some omissions ; but in substance we have a list of those showing recommendations by citizens who have recommended more than three times ; may I ask you whether you know the name of Thomas A. Kerrigan ?

A. No, sir.

Q. You don't know who Thomas A. Kerrigan is ?

A. No, sir.

Q. Have you no idea what his politics are ?

A. No, sir, I don't know.

Q. Suppose I refresh your recollection by suggesting that Mr. Kerrigan's place of business is in Willoughby Street ?

A. I didn't know him by the name of Thomas A. Kerrigan. I know Thomas Kerrigan.

Q. You know a Thomas Kerrigan ?

A. Mr. Thomas Kerrigan.

Q. An auctioneer ?

A. Yes, sir.

Q. Do you know his politics ?

A. I only know from reports. I never saw him vote nor heard him express himself.

Q. What do you understand to be his politics ?

A. A democrat.

Q. William H. Murtha ; do you know his politics ?

A. He is classed among democrats ; I think he is.

Q. John McCarthy ?

A. Yes, sir, a democrat.

Q. James A. Murtha ?

A. Yes, sir, democrat.

Q. Peter Mahoney ?

A. Yes, sir, a democrat.

Q. Edward Moran ?

A. I can't vouch for him.

Q. Do you know him ?

A. No, sir.

Q. Did you ever hear of him ?

A. I heard of the name ; I don't know him.

Q. Have you ever heard of him with reference to politics at all ?

A. No, sir.

Q. Never ?

A. No, sir.

Q. With reference to what have you heard of Moran?

A. I never have heard only his name mentioned.

Q. Do you know E. D. Norris?

A. I don't know him.

Q. Daniel O'Connell?

A. A Democrat.

Q. Theophilus Olena?

A. A Democrat.

Q. John Ennis?

A. A Democrat.

Q. William A. Furey?

A. A Democrat.

Q. Patrick Hayes?

A. A good Democrat.

Q. William Hogan?

A. I don't know him.

Q. John Delmar?

A. A good Democrat.

Q. John Courtney?

A. A Democrat.

Q. William B. Cornell?

A. A Democrat.

Q. Henry J. Cullen?

A. A Democrat.

Q. Thomas Carroll?

A. He is a Democrat.

Q. M. J. Coffey?

A. A Democrat.

Q. M. J. Cummings?

A. A Democrat.

Q. Anthony Barrett?

A. A Democrat, I judge.

Q. William Barre?

A. Democrat.

Q. Robert Blank?

A. A Democrat.

Q. George B. Abbott?

A. He is a Democrat.

Q. Andrew Renck?

A. He is a Democrat.

Q. William A. Brown?

A. I guess he is a good Democrat.

Q. William Bryan.

A. I know three or four Bryans; I don't know which one you have reference to.

Q. They are Democrats, aren't they?

A. I don't recollect them; I only tell the things I know.

Q. Peter Bennett?

A. Democrat.

Q. George H. Sterling?

A. Yes, sir; a Democrat.

Q. James Shevlin?

A. Yes, sir.

Q. Andrew Walsh?

A. Yes, sir.

Q. William A. Powers?

A. Yes, sir.

Q. Out of those names that I have read, being citizens upon whose recommendations three or more appointments have been made, have there been any which you know to be otherwise than Democrats more or less active in local politics in this City?

A. I couldn't answer that.

BY MR. COLE: Q. Have you appointed any republicans to office since you became Commissioner?

A. Yes, sir.

Q. Can you give the names?

A. No, sir, I can not name them, only I have heard that there were republicans; I can't give the politics.

BY MR. SHEPARD: Q. How many?

A. I couldn't name them; I couldn't give the number.

Q. Can you name one?

A. Yes, sir, I can name one.

Q. Who was that?

A. His name was Nicholas Wilson.

Q. Was he appointed from the Civil Service List?

A. No, sir.

Q. To what position?

A. Laborer's position.

Q. Now name any other ?

A. I don't remember any at present.

Q. Don't remember any ?

A. I have got a good many in my office which are retained which I suppose would be considered appointments.

BY MR. COLE: Q. How many men have you appointed since you became Commissioner ?

A. A good many.

Q. 500 ?

A. Oh, no.

BY MR. SHEPARD: Q. Including laborers ?

A. Yes, sir.

Q. And you remember one Republican ?

A. Yes, sir, by name ; I only know I was told that he was a republican ; I don't know that.

Q. Do you still feel inclined to say to the Committee that the political opinions of the men appointed have not affected your appointments at all ?

A. No, sir.

Q. It has been a mere accident—?

A. No, I don't know as you could call it accident.

Q. What would you call it, that out of the 600 or 700 appointments there should be the appointment of one republican ?

A. I want you to take into consideration my own men in the office who are credited as being republicans. You must consider them as appointments.

Q. We will take that. But to proceed to those actual appointments, which I understand to have been 600 or 700 ?

A. I don't know anything about politics, and I only speak about this man as being said to be a Republican ; I don't know that he is a republican.

Q. Do you know the political opinions of any other of the appointees of yours ?

A. Not of personal knowledge.

Q. Do you know it by rumors or reports ?

A. A great many rumors are going.

Q. Outside of those appointed, has it been rumored to you that any other one was a Republican than this one you have mentioned ?

A. I cannot remember.

Q. Has it been rumored to you that out of the 600 or 700 appointments outside of this one there have been any that were Democrats in politics ?

A. No, sir.

Q. You have had no idea of their politics ?

A. No, sir ; only I judge the laboring men that they are democrats.

Q. How do you judge ?

A. I judge that the laboring portion of the men that do the work along the streets and paving, &c., are generally Democrats.

Q. Taking Schedule B positions and Schedule A positions, how do you judge of the politics there ?

A. I haven't judged of the politics at all.

Q. Can you tell the Committee now that any man that you have appointed, except this one laborer that you have mentioned, was other than a democrat ?

A. I haven't learned whether they are democrats or republicans.

Q. Or that you supposed was republicans ?

A. I cannot suppose.

Q. Have you supposed ?

A. No, sir ; not at all.

Q. You haven't had the slightest impression what their politics were ?

A. No.

Q. So that out of 600 or 700 only one man, and he occupying a laborer's position, is known to you as to his politics ?

A. That is the only man that I have knowledge about.

Q. And that is the fact ?

A. The other, I have no personal knowledge about.

Q. And no supposition ?

A. I don't want to suppose anything ; I can't suppose anything about it.

Q. Did you suppose, in fact ?

A. I did not suppose.

Q. Then my question is right ?

A. I don't suppose, because I don't inquire into a man's politics. I don't take politics into question at all and don't suppose anything about the case.

Q. It is a fact then, is it not, which the Committee should take from you that out of the 117 appointments that you have made, you have had no reason to suppose as to the politics of any of them except one ?

A. No, sir ; I have no reason to suppose as to any of them, nor as to that one ; only I heard it by mere chance.

Q. Did you hear by mere chance as to any others ?

A. No, sir.

Q. And this one Republican laborer—you heard by mere chance as to his politics ?

A. By chance. I don't know that he is a Republican.

Q. And then by chance you have learned or heard nothing as to politics of any of the others ?

A. No, sir ; I haven't carried my office into politics ; I haven't enquired as to the politics of the men.

Q. Well, as to the men who vouched for them. Have you had a general impression as to politics ?

A. No, not in all cases ; there are plenty that I told you that are strangers to me that I don't know at all.

Q. But as to the others you have had an impression ?

A. I don't know who those men are now ; my memory don't serve me.

By MR. COLE : The twelve appointees to heads of bureaus and your department are all Democrats ?

A. All Democrats, I wouldn't have any other.

Q. All those you speak of appointed before the thirty days were Democrats ?

A. All Democrats. I wanted to have men as heads of my departments who would be in sympathy with me.

By MR. GREENE : Q. Have you any reason to know whether there was more than one Democrat appointed among the 617 ?

•

A. No, sir.

Q. You don't mean to be understood or have the impression go out that you know you didn't appoint but one Republican?

A. No, sir, I do not. I think there are more.

Q. And you don't know that it is the purpose of this examination to present a political view, do you?

A. No, sir, I didn't suppose there was any politics in this thing.

MR. GREENE: I didn't either.

THE WITNESS: I am not aware of any politics in that.

BY MR. SHEPARD: Q. You are familiar with politics, are you not?

A. I leave you to judge of that.

Q. Before you were a Commissioner you were an Alderman?

A. Yes, sir.

Q. You served as Alderman, I think I know, for two years at least.

A. Yes, sir.

Q. Because I voted for your nomination, If I remember right, as Alderman; and before that you had been active in politics?

A. Ever since I was a voter.

Q. In this county?

A. Yes, and in New York.

Q. How many years have you been in active politics here?

A. Sixteen years.

Q. And as to men who are active in politics you probably have as good a knowledge of them as any man active in politics here?

A. That is a question, whether I would have a good knowledge or not.

BY MR. COLE: Q. You are a friend of Mr. Ridgway, are you not?

A. How would I take that?

Q. Well, you are friendly with him?

A. I have an acquaintance with him.

Q. You are intimate with him ?

A. Yes, sir, quite intimate.

Q. And you took an active part in his election last fall ?

A. Yes, sir.

Q. And you discussed his election somewhat, among your employees, did you not ?

A. No, sir ; I did not discuss it with any of my employees ; no politics.

Q. Your active part was entirely outside of your employees ?

A. Yes, sir.

BY MR. GREENE : Q. Since you have said you have been familiar with politics in former years, can you tell me the politics of ex-Sheriff Stegman ?

A. Republican.

Q. And ex-Sheriff Daggett ?

A. Republican.

Q. And they were the two who next preceded the present Sheriff ?

A. Yes, sir.

Q. And what have been the politics of the gentlemen who preceded the present Register in office ?

A. Republican.

Q. And the County Clerk ?

A. Republican.

MR. GREENE : We haven't had any examination into those thus far ?

THE WITNESS : No, sir.

MR. GREENE : I ask counsel that they will take a broader scope in this examination than they have done thus far, in order to enable us to form a judgment whether the statement as to the salaries of the respective officers is a correct one or whether it is deceiving, being only for a single year. I think it is much wiser, if we are to form a correct judgment, and to enable the public to form a correct judgment, that we take a wider scope in the examination of the fees of these officers than one or two years.

MR. SHEPARD : We expected to examine Mr. Richards, and at the last moment discovered that he was not within reach of our summons.

MR. GREENE : If Mr. Richards has gone, Mr. Daggett has not gone, nor has Mr. Stegman, nor the former County Clerk.

MR. GOODRICH : We cannot, of course, examine all the witnesses that we desire to bring here in one day. In due season we presume the Committee will be adequately informed about the whole subject.

MR. GREENE : I hope so.

MR. SHEPARD : Judge Greene, you refer to the county officers, I think ?

MR. GREENE : Yes, sir ; I refer to an inquiry into every department into we have already taken a little view.

BY MR. CUTLER : Q. Mr. Commissioner, what are the politics of your secretary, republican or democrat, so far as you know ?

A. He has always been credited with being a republican ; I never saw him vote and don't know.

Q. Upon rumor you believe him to be a republican ?

A. Yes, sir.

Q. You have said that you thought that the laboring men were usually democrats ?

A. Yes, sir.

Q. I suppose that you mean by that that the democratic party is the refuge of the poor man ?

A. They generally look after the poor man's interest.

MR. CUTLER : I think you are quite right there.

MR. PARSONS : Judge Greene, may I make this observation : The testimony of Mr. Ranken, or rather of his deputy who has been in the office a great many years, was that the years covered by Mr. Ranken's incumbency and more particularly the year 1866 was an exceptionally bad year. We have assumed the same to be true in reference to the Register's Office, because we have proved that the fees of that office are larger or less according to the activ-

ity in real estate. It has been the intention of counsel to broaden this inquiry so as to cover a long period ; and we had supposed we had done so in making this contrast, from which I think that the Assembly must infer that the predecessors in office of the gentlemen who have been named have received larger emoluments from the offices than has been the case with them. But if the Committee so decides in regard to the matter the counsel are prepared to say that we will be delighted to furnish the information through the examination of witness so far as they go.

Judge Greene will recall the fact, which I think should go upon record, that an effort was made to examine Mr. Samuel Richards, the predecessor in office of Mr. Murtha as Register, whom I understand to have been a Republican; (and I regret that I can make no stronger statement upon the subject, because I am very unfamiliar with the politics of people in Brooklyn; I know almost as little upon the subject as Mr. Conner does)—an effort was made to examine this gentleman whom I had supposed to be a Republican, and the return of the Marshal of the effort to serve the subpoena was, that about a week before the first sitting of the Committee Mr. Richards went abroad.

MR. GREENE: But I would prefer very much facts to anybody's opinion.

MR. PARSONS: We all agree with Judge Greene.

MR. GREENE: And these gentlemen who have testified as to comparative years, as to one year being a good year or an unfortunate year, may be greatly mistaken. The deputies of Mr. Richards have not gone away, I take it?

MR. PARSONS: I think that somebody may be put upon the stand from whom this information can be elicited in an exact way.

MR. GREENE: And thus obtain particulars that we can act upon intelligently.

MR. COLE: Those facts can be got at in due time.

MR. PARSONS: This prolonged inquiry will involve the necessity of much prolongation of the time of service of the Committee, and I hope that that will be considered by the

Committee on the question of whether it will be necessary to sit after the 1st of April. We have been controlled in our course by the wish to terminate the investigation by that time. Obviously to go into an investigation prior to the current period will require much additional time, and I presume that the Legislature will be very willing to give it to the Committee.

BY MR. SHEPARD : You produce, Commissioner Conner, from the office of the Civil Service Commission eight communications from your office signed either by yourself or James A. Murtha, your deputy ; the last communication being dated the 4th of December, 1886 ; will you please examine those papers and state whether they give the reasons for the removal of those offices ?

A. Yes, sir ; those do. (Referring to three of the eight letters.)

Q. Among these three papers appears one dated February 1, 1886, stating that " Charles W. Copeland, Consulting Engineer, having sent in his resignation and the same having been accepted, his services are no longer required in this department from and after this date " ; is that one of the communications sent by you to the Civil Service Commission stating a reason for a removal ?

A. Yes, sir.

Q. One other of these papers bears date the 8th of November, 1886, signed James A. Murtha, and addressed to the Civil Service Commission, and after stating a matter of promotion, adds : " I have also discharged Thomas Mc-Lear, Inspector of Connections, Water Purveyor's Bureau, his services being no longer required ; not competent to fill the place ; from and after November, 8, 1886." Is that a case where reason is given ?

A. Yes, sir.

Q. And on the 4th of December, 1886, is a similar communication to the Civil Service Commission, saying : " I have this day dispensed with the services of James J. Fielding, clerk in Water Registrar's Office, for neglect of duty, to take effect from and after December 4, 1886." That letter is signed by you ; is that a case where you have given a reason ?

A. Yes, sir.

Q. Do you know of any other communication excepting the three mentioned sent by you to the Civil Service Commission giving a reason for a removal?

A. I cannot tax my memory, sir, with all the communications that passed between the Department of City Works and the Civil Service Commission.

Q. You have testified that you made 106 removals?

A. Yes, sir.

Q. And I understood you to say that as to every removal you filled the reason with the Civil Service Commission?

A. Yes, sir; in my judgment I have.

Q. Do you know of any communication sent by you excepting those three?

A. No, sir; none other; that is, I don't understand you.

Q. Do you recollect of any other?

A. I suppose that all the communications have got the reason for it, the same as those have.

Q. So that your supposition is that in addition to the three which have been here produced there were 103 giving reasons?

A. Yes, sir; every one; it was the same for every one.

MR. GOODRICH: Those few papers are all that are there?

THE WITNESS: I am not the custodian of them.

BY MR. COLE: Your recollection is that you sent a communication in every one?

A. Yes, sir; I am obliged to, and I am trying to conform to the law.

MR. SHEPARD: That will be all, unless you wish to say something.

THE WITNESS: I have a little statement here that I wish to present here concerning the workings of my department.

MR. PARSONS: I can see no objection of letting Mr. Conner present it, but it will lead to inquiry.

THE WITNESS My reason for preparing this is that I should like to show my department.

BY MR. ARNOLD: Q. You appear to have had a great deal of political experience in this town, and I would like to have you give the Committee your opinions as to the general utility of the Civil Service Law as applied to the Government of the City of Brooklyn?

A. I don't like to give an opinion upon that subject while I am under oath.

MR. CUTLER: You don't think it is very good?

THE WITNESS: When I am off the stand I will answer that question.

MR. PARSONS: What practically are the objections to it, Mr. Conner?

MR. ARNOLD: That is something the Committee are interested to ascertain.

THE WITNESS: If you will take it as private opinion, I think it is no good. I will give you my reason why I think it is no good.

MR. PARSONS: Perhaps, Mr. Conner, you will be willing to do this: state what really as matter-of-fact are the practical objections to the working of the system according to your view and as the result of your experience.

THE WITNESS: I have proved in the selection of the heads of my departments that I have got a more efficient corps of men than occupied the office before, as my annual report will show, under their management, by the amount of revenue I have turned into the city.

BY MR. PARSONS: Q. Hasn't that been under the operation of the civil service system?

A. No, sir; they were all selected without civil service.

Q. You still fail to meet and perhaps to comprehend the point of the enquiry; we fail to gather from what you say what is the efficiency and the value of that system for practical operations?

A. I don't think it is of any importance, sir. That is it.

Q. The point of the question is: What objections of a practical character are there to the system?

A. Very often in a large department like mine you are compelled to accept men you don't know. I have been necessitated to make over twenty changes of Civil Service men for incompetency and intemperance, which I was necessitated to take them. I couldn't tell what they were; I can't tell you what they were. I have no regards to a man's politics as regards efficiency.

Q. What "necessitated" you to take them?

A. By regulations of the Civil Service.

MR. CUTLER: Do you desire this to go down as your evidence, Mr. Conner?

THE WITNESS: No, sir.

MR. CUTLER: You are stating this as not under oath, then?

THE WITNESS: No, sir; I merely give it because Mr. Parsons asked me my private opinion of Civil Service. I gave it, and I supposed it was not on the record. Although I don't object to its being on the record. I can defend what I say, and prove it too.

MR. ARNOLD: Then you need not have any fears with regard to having it on the record, being merely a matter of fact.

THE WITNESS: I have been compelled by the Civil Service to take men I didn't want.

By MR. PARSONS: Q. I have come here late to-day and didn't have the pleasure of listening to your testimony. There is one subject, Mr. Conner, about which I would like a little information, and it is this: Are not applications for public positions, irrespective of the operation of the Civil Service system, largely made a matter of politics; or in other words are not applicants for public positions, in large majority, made up of persons who either have political influence or are backed by persons who have political positions? It isn't a question of one party or the other, but the general proposition, about which I wish information.

A. It would naturally tend that way, because the changes in administration bring general applications for positions, and they are generatly backed up by vouchers of parties that are interested in the applicants.

Q. That leads me to put this question to you : How is it that you who have been for so many years engaged in political life and in party politics in Brooklyn, are so ignorant about the political affiliations of persons who seek positions in your department ?

A. I don't plead ignorance. I only speak of facts as I know them. I don't suppose it.

Q. How is it possible that you should have no impression about the political party to which belong all of these persons who apply to you for positions or to your department for positions, and who are backed by gentlemen of prominence in Brooklyn ?

A. Well, I have been the recipient of many applications that have been endorsed by men that I have known them to be republicans.

Q. How did you know them to be republicans ?

A. Because I had daily association with them.

Q. Now, Mr. Conner, won't you frankly take back what you said a little while ago, that you had no impression about the politics of the applicants for position in your party ?

A. No, I couldn't take it back.

Q. You still stand by that, do you ?

A. Yes, I do, because I don't bring the question of politics into the application.

Q. You are answering to one subject, while I ask you about another ?

A. I will answer direct, Mr. Parsons.

Q. Yes, do, please. What I wish you to explain is, how it is possible that you shall have no impression as to the political party to which belong this immense number of persons who are applicants for positions in your department ?

A. Because the Civil Service don't allow me to.

Q. Is that what you mean by the testimony which you have given on this subject ?

crat appointed by a republican, and he was not a full-fledged democrat.

Q. Now the practical point is here. Were you sufficiently acquainted with the administration of your department under Commissioner Fleeman to be able to state whether the personnel of the department—I mean the employees of department—when changes were made, were changed to Republicans as against being changed to democrats?

A. I couldn't answer that question.

Q. You don't know about that?

A. No, sir.

Q. In some way or other under your administration, when changes have been made, the changes have happened to be to democrats?

A. Oh, yes. I have got a good many war veterans; I don't know whether they are democrats or republicans.

MR. PARSONS: Counsel to the Committee desire to ascertain, Mr. Conner, whether you wish this statement produced by you to be printed as part of your testimony?

THE WITNESS: Yes, sir; I do.

(The statement of Mr. Conner is as follows):

(STATEMENT prepared by the Commissioner of City Works, Mr. Connor, and presented by him before the Committee on the occasion of his examination as a witness before the Committee on the 18th day of March, 1887, and at his request appended to and made a part of his testimony.)

RIDGEWOOD ENGINE HOUSE.

MONTH.	COST EACH MONTH		AVERAGE CONSUMPTION.	
	1885.	1886.	1885. Gallons.	1886. Gallons.
January.....	\$5,427 72	\$6,053 11	42,729,170,	45,446,674
February.....	5,811 97	5,740 97	48,941,497,	48,501,947
March.....	5,185 60	5,181 82	45,752,868,	46,071,116
April.....	5,582 97	5,621 72	43,474,809,	43,504,403
May.....	5,827 84	5,564 80	43,506,173,	42,696,051
June.....	6,271 24	5,883 84	45,311,477,	45,701,726
July.....	6,527 56	6,014 27	45,588,007,	45,845,815
August.....	6,579 22	6,352 53	43,935,190,	45,881,645
September.....	6,438 35	6,300 83	42,649,769,	47,002,953
October.....	6,200 72	6,184 75	40,520,957,	44,464,399
November.....	6,441 60	5,962 83	38,562,523,	42,118,766
December.....	6,154 65	5,693 18	40,049,804,	46,629,301
	\$71,949 30	\$70,554 60	43,414,270	45,322,066

PUMPING STATIONS ON THE LINE.

	1885.	1886.
January.....	\$1,921 61	\$2,774 57
February.....	1,921 61	2,679 23
March.....	1,921 61	2,560 51
April.....	2,187 41	2,681 84
May.....	2,519 21	2,702 01
June.....	2,602 59	2,546 14
July.....	2,618 59	2,587 82
August.....	2,480 51	2,592 06
September.....	2,697 09	2,628 87
October.....	2,757 09	2,692 27
November.....	2,753 09	2,682 09
December.....	2,755 34	2,754 59
Total.....	\$29,135 75	\$31,882 00

Forest Stream and Clear Stream was not charged until April, 1885,

Total.....\$31,882 00

Less..... 2,100 00 Forest and Clear Stream.

\$29,782 00

PONDS AND CONDUITS AND KEEPERS OF RESERVOIRS.

Month.	COST. 1885.	COST. 1886.
January.....	\$ 961 50	\$1,464 93
February.....	1,059 80	1,464 93
March.....	972 12	1,254 96
April.....	1,227 50	1,292 08
May.....	1,311 00	1,497 96
June.....	1,588 20	1,597 78
July.....	1,008 46	1,655 20
August.....	1,711 68	1,670 58
September.....	1,762 96	1,603 83
October.....	1,827 09	1,723 58
November.....	1,826 23	1,722 33
December.....	1,715 08	1,819 08
	\$17,591 71	\$18,638 36

Considerable work was done by this force 1886, on the new water shed, East of Rockville Centre. Breaking away of Dams at Jones and Freeport.

STREET REPAIRS.

The gangs for this work were employed in the same manner as in past years, making the force such as to enable the department to carry the men the entire season. The appropriation being \$100,000.

GRANITE PAVEMENT.

This work was done by contract, and in all cases part of the cost was collected from property owners. Wallabout Market was paved with Belgian by days' labor and charged in accordance with law to the \$100,000 appropriated for Belgian and granite repaving. The same amount appropriated in the year 1885.

SEWERS.

The miles of sewers built in 1885-6 were about the same. The same force was employed each year.

NO. EMPLOYEES, PONDS, CONDUITS, &c.

1885.	DEC.	1887.	JANY.
1 Keeper Storage Res. & Supt. P. & C.....	1200 00	1 Keeper Storage Res. & Supt. P. & C.....	1200 00
1 Ass't Keeper Storage Res.....per day.....	2 00	1 Ass't Keeper Storage Res.....per day.....	2 00
1 Foreman Conduit Gang..	900 00	1 Foreman Conduit Gang..	900 00
1 Keeper Ridg'd Res.....	700 00	1 Keeper Ridg'd Res.....	700 00
1 Watchman " "	750 00	1 Watchman " "	750 00
4 Keeper Ponds.....	600 00	4 Keeper Ponds.....	600 00
1 Screen Cleaner.....	240 00	1 Screen Cleaner.....	240 00
16 Laborers.....per day.....	1 75	1 " " ..per day..	2 00
1 Laborer " "	1 50	1 " " " "	2 25
3 Teams " "	4 50	16 Laborers " "	1 75
		2 Teams " "	4 50
30		30	

NO. EMPLOYEES, PUMPING STATIONS.

1885.	DEC.	1887.	JANY.
1 Engineer.....	1400 00	7 Engineers.....	1100 00
7 "	1100 00	9 Ass't "	1000 00
8 Ass't Engineers.....	1000 00	2 " "	900 00
2 " "	900 00	1 " " ..per day....	2 50
18 Firemen.....	720 00	12 Firemen.....	720 00
1 Oiler.....	780 00	6 Laborers.....per day.	2 00
1 Laborer.....per day.....	1 75	1 " " " "	1 75
38		38	

NUMBER EMPLOYEES, RIDG'D ENG. HOUSE.

1885.	DEC.	1887.	FEB.
1 Chief Engineer	2500 00	1 Chief Engineer.....	2500 00
1 1st Ass't "	1600 00	1 1st Ass't "	1600 00
5 " "	1320 00	5 " "	1320 00
6 " "	1200 00	6 " "	1200 00
1 Clerk.....	1000 00	1 Clerk.. ..	1100 00
7 Oilers.....	780 00	7 Oilers.....	780 00
18 Firemen	744 00	14 Firemen.....	744 00
1 "	720 00		
8 Coal passers.....	660 00	9 Coal passers.....	660 00
1 Machinsit	1000 00	1 Machinist	1000 00
2 " ..per day....	3 00	1 " ..per day....	3 00
2 " Helper.....	720 00	1 " Helper.....	720 00
1 Blacksmith.....	1000 00	1 Blacksmith.....	1000 00
1 " Helper.....	720 00	1 " Helper.....	720 00
1 Carpenter.....	1000 00	2 Carpenters.....	1000 00
1 " ..per day....	3 00	1 " ..per day....	2 50
1 Ass't "	720 00		

1 Hostler and Driver.....	720 00	1 Hostler and driver.....	720 00
1 Watchman.....	780 00	1 Watchman.....	780 00
1 Coal Inspector..per day..	3 00	1 Inspector.....per day...	2 50
1 Leading laborer.. " ..	2 25	1 Skilled laborer.. " ..	2 50
8 Laborers..... " ..	2 00	19 1st class " .. " ..	2 00
16 " .. " ..	1 75	10 Laborers..... " ..	1 75
2 Masons	4 50		
6 " .. " ..	4 00		
1 Horse and Cart.. " ..	3 00		
<hr/>		<hr/>	
96		85	

FROM MINUTES, APRIL 6, 1886.

It is ordered that on and after this date the heads of the different Bureaus be and they hereby are notified that no order for work or supplies of any kind will be considered valid unless signed by the Commissioner of the Department of City Works or his regularly appointed Deputy.

"Attest from Minutes."

James A. Murtha, Depty. Comr.....	\$3,600 00
Dan'l C. Northrup, Sect.....	3,300 00
Andrew B. Martin, Accountant.....	3,500 00
Robt. Van Buren, Chf. Engr....	4,500 00
Henry Hawkes, Water Purveyor.....	3,500 00
Edward J. O'Flynn, Water Registrar....	3,500 00
Wm. H. Goff, Supt. Sewers.....	2,200 00
George H. Sterling, Supt Streets	2,500 00
Peter Mahoney, Supt. Supplies.....	1,600 00

WATER PURVEYOR'S DEPARTMENT.

Comparison of work done :

	1885.	1886.
Hydrants set.....	151	198
Stop cocks	53	60
Hydrants repaired.....	1,246	8,098
Water pipe laid	5 3-10 miles.	7 8-10 miles.

PAYMASTER'S SERVICES AS COLLECTOR

In addition to his regular duties.

Collection of old account water meter and drainage bills from 1881 to 1885.....	\$1,319 18
Bills cancelled from removals.. .. .	447 53

 \$1,766 69

	1885.	1886.
Grading and paving.....	6,328 ft.	10,948 ft.
Gas lamps, setting, &c.....	36	100

SEWER DEPARTMENT.

Cleaning and repairing, 1885.....	\$50,760 25
“ “ 1886.....	48,595 94

 Less year 1886.....\$2,164 31

	1885.	1886.
Salary acc't. from Tax levy.	\$86,003.42	\$85,580.97
Decrease in 1886 of.....		422.45
Receipts of Water Revenue...\$1,257,796.46		\$1,347,571.47
Increase in 1886 of.....	89,773.01	
Disbursements of Water Revenue.....	\$1,204,027.67	\$1,185,037.26
Decrease in 1886 of.....		18,990.44
A gain in Water Revenue of..\$ 108,765.45		
Surplus Water Revenue.....\$ 53,768.79		\$162,534.24
Balance on January 1.....	129,404.48	183,173.27
		<hr/>
		\$345,707.51
Amount transferred to the Sinking Fund,		345,000.00
		<hr/>
Balance as if on Jany. 1, 1887.....		\$ 707.51

Alexander C. Evangelides, recalled and further examined :

By MR. SHEPARD : Have you looked in the records of the Civil Service Commission for communications from the Department of City Works under Commissioner Conner, showing the reasons for removals ?

A. Those that you have there are all the communications that I had.

Q. The eight communications produced by you and which have been shown to Mr. Conner are all the communications on file in that office under the Civil Service ?

A. Yes, sir ; relating to removals.

Q. Then the three communications to which he testified, are the only three out of the eight which give the reasons for removals ; are they the only communications on file in your office which give such reasons ?

A. Yes, sir.

Table showing dates of examinations, dates of notices, &c., as prepared by Mr Walradt, and testified to by Mr. Evangelides.

NO. OF EXAMINATION.	SUBJECT.	DATE OF EXAMINATION.	DATE OF FILING.	DAYS NOTICE GIVEN.	INTERVENING SUNDAYS OR HOLIDAYS.	NO. APPLICANTS EXAMINED.
1	Draughtsmen	Mar.	10	8	4	
2	Veterinary Surgeons	"	15	10	2&3	
3	Clerks—A	"	18	16	3	
4	Plumbing Inspectors	"	24	22	4	1
5	Supt. Truants' Home	"	24	"	4	1
6	Surgeons	"	12	9	3	1
7	Vaccinators	"	29	26	3	
8	Assistant Inspectors of Health	"	"	"	3	
9	Keeper's New Reservoir	Apr.	6	6	3	1
10	" Municipal Building	"	"	"	"	1
12	Nuisance Inspectors	"	8	5	3	5
13	Milk	"	"	"	"	8
14	Meat	"	"	"	"	13
15	Clerks—" B."	"	12	8	2	195
16	Foundry Inspectors	"	14	13	1	2
17	Lamp	"	14	13	1	2
18	Messengers	"	15	13	1	13
19	Watchmen	"	"	"	1	37
20	Inspectors Street Cleaning	"	22	21	1	20
21	Foremen Street Repairs	"	"	"	1	23
22	Inspectors of Garbage	"	"	"	1	30
23	Clerks—" C."	May	3	30	2	98
24	" " D.	"	7	6	3	21
25	" " E.	"	"	"	"	8
26	" " F.	"	"	"	"	1
27	Inspectors Resurveys	"	14	13	2	3
28	" Cleaning R. R. Streets	"	"	"	"	3
29	" Water Pipe Laying	"	"	"	"	1
30	Keepers of Pipe Yard	"	"	"	"	1
31	Inspectors Street Repairs	"	"	"	"	2
32	" Streets Torn up by Gas Companies	"	"	"	"	2
33	Inspectors of Buildings	"	"	18	4	1
34	Rodmen	"	"	"	"	10
35	Levellers	"	"	"	"	4
36	Keepers of Reservoirs	"	"	"	"	9
37	Inspectors of Taps and Connections	"	"	"	"	15
38	Foremen Repair Yards	May	21	20	2	8
39	Inspectors of Sewers	"	"	"	"	6
40	" of Sewer Connections	"	"	"	"	4
41	Oilers	"	25	24	"	8
42	Chairmen	"	"	"	"	4
43	Foremen Sewer Repair Yards	"	"	"	"	2
44	Sup. of Telegraphs	"	"	"	"	5
45	Inspectors Plumbing	"	28	25	3	6
46	Mechanical Engineers	"	"	"	3	20
47	Firemen—City Works	"	"	"	3	7
48	Inspectors Water for Shipping	June	4	1	3	3

NO. OF EXAMINATION.	SUBJECT.	DATE OF EXAMINATION.	DATE OF FILING.	DAYS NOTICE GIVEN.		
				INTERVENING SUNDAYS OR HOLIDAYS.	No. APPLICANTS EXAMINED.	
49	Keeper of Baths	"	"	1	3	2
50	Masons	"	"	1	3	3
51	Draughtsmen	"	"	1	3	1
52	Calkers	"	"	1	3	1
53	Carpenters	"	"	1	3	5
54	Keepers of Ponds and Streams	"	"	1	3	6
May						
55	Policemen	June	10	29	3	316
56	Machinists and Helpers	"	4	1	3	7
57	Inspectors of Cut-off Water	"	17	16	1&2	1
58	" Extra Water Rates	"	"	"	"	2
59	Blacksmiths	"	4	1	3	6
60	Inspectors of Street Constructions	July	7	6	3	4
61	" of Coal	"	"	"	3	1
62	" of Steam Boilers	"	"	"	3	5
63	German Interpreters	"	"	"	3	3
64	Clerks "B."—Special	"	22	21	1	1
65	Engineers and Machinists	"	"	"	1	2
66	Park Keepers	Oct.	14	12	3	35
67	Machinists	Nov.	22	20	2	2
68	Captains of Park Keepers	"	"	"	"	1
69	Draughtsmen	"	"	"	"	1

Table prepared by Mr. Walradt showing appointees and vouchers, and referred to in his testimony.

DEPARTMENT OF CITY WORKS.

- May 12, 1886. Francis Travis (V), p. 26, clerk.
 John Naumer (Searcher), P. F. Fallon
 (liquors), John B. Byrne (lawyer), Ed-
 ward Moran.
 Eugene Wipfler (V), Old List Clerk.
- May 13, 1886. R. F. Cole (V), Clerk.
 John McNeill, Willis A. Bardwell, Fran-
 cis B. Stryker.
- May 12, 1886. James J. Kehoe, Clerk.
 T. J. Edwards, Owen Patton, Peter J.
 Hughes, John L. Dwyer, John J. Murphy.
 A. L. Darber, Clerk.
 Preston Vanhorn, S. F. Burr, Jay F.
 Butler, James B. Richmond, Patrick
 Hayes.
 Daniel Hennesy, Clerk,
 Patrick Hayes, John M. Ranken, Wm.
 D. Cornell, John C. Fullerton, James
 J. McCaffrey.
- Apr. 22, 1886. John M. Smith, p. 31, Keeper of Reservoir.
 Jas. Shevlin, W. Barre, W. H. Murtha,
 Henry Beane, Seth L. Keeney.
 Cornelius Cozine, Keeper of Municipal
 Building.
 W. Barre, W. H. Murtha, John McCart-
 thy, Henry W. Burnard.
- July 1, 1886. T. J. O'Donnell, p. 34, Clerk.
 F. J. Dougherty, Hugh A. McTernan,
 Chas. A. Webber, D. H. Roach, Ed-
 ward Moran.
- Dec. 7, 1886. F. D. McClellenn, p. 34, Clerk.
 M. E. Earl, John Harrison, Rufus L.
 Scott.

Thos. J. Corcoran, Clerk.

Francis Nolan, Thos. J. Patterson, Thos.
F. Moquer.

Apr. 22, 1886. George H. Bennett, p. 37. Foundry In-
spectors.

E. D. Morris, John D. Walsh, Wm. A.
Brown, Patrick Hayes, Patrick Ma-
honey.

Thad. K. Martin, Inspectors of Lamps.

W. H. Murtha, W. H. Field, Julius
Sherer, Daniel O'Connell.

May 1, 1886. H. J. Vaughan, p. 38. Messengers.

John U. Shorter, W. H. Murtha, Henry
M. Winter, George Russell, John W.
Walker.

Thomas Finn, Messenger.

John McCarty, Thos. Carroll, W. H. Jor-
dan.

John Bohringer, Messenger.

L. J. Forney, Jas. F. Shields, F. B.
Watson.

H. D. Schoonmaker, Messenger.

Robert Blank, W. H. Murtha, Jas. W.
Ridgeway, Wm. A. Furey.

June 8, 1886. George W. Leete, Messenger.

Rufus L. Scott, Mortimer C. Earl, John
Harrison, Davis and Fitzgerald, John
W. Flaherty.

May 1, 1886. P. E. Coyne, Messenger.

Robert F. Clark, Edward Whiteside, P.
J. Gelson.

James J. Smith, p. 39, Watchman.

Michael Ryan, Andrew McDonald, Geo.
B. Abbott, Henry J. Cullen, Jr.

John McTiernan, Watchman.

Bernard McBride, Geo. H. Sterling, W.
H. Murtha, B. H. Dolan, W. Barre.

James Fitzpatrick, Watchman.

P. H. Fanchon, W. H. Jordan, John
McCarty, M. J. Cummings.

Patrick Murtagh, Watchman.

Jas. Reynolds, W. H. Murtha, J. J. Morris,
Aaron Feldmuller, J. J. Wheeler.

Andrew Kane (V), Watchman.

P. J. Kelly, John Harrison, John Cunningham,
W. H. Murtha, P. C. Kane.

Peter Mullaly, Watchman.

John Courtney, Edward Moran, D. E.
Callaghan, Peter J. Doyle.

P. C. Monahan, Watchman.

Patrick J. Kelly, S. Shaughnessey, J. C.
Fullerton (liquor).

**Thos. McCormick, p. 40. Inspectors of
Street Cleaning.**

Francis Nolan, Timothy Holihan (liquors),
John T. Gallagher, John B. Freeman,
G. N. Titus.

**May 1, 1886. Thos. Kane, p. 40, Inspector of Street
Cleaning.**

G. Malcom (brewer), John H. Rowland,
Jas. H. Flynn, Hugh McLaughlin,
Edward Freal.

**Thomas Douglass, Inspector of Street Clean-
ing.**

Wm. A. Furey, Geo. H. Sterling, Jos. W.
Ridgway, W. H. Murtha.

**June 21, 1886. Daniel Higgins, Inspector of Street Clean-
ing.**

Theophilus Olena, John Delmar, John
F. Meeson, Thos. E. Pearsall, Geo.
Duval.

**May 1, 1886. Jas. McDermott, p. 41, Foreman St. Rep'rs.
John M. Clancy, John McCarthy, A. P.
Coates, Patrick Healy, Thos. J. Deu-
nehy.**

Jas. Dillon, Foreman St. Repairs.

W. D. Cornell, Patrick Hayes, S.
Shaughnessey, John C. Fullerton, Ed-
mund A. Kolleagher.

Phillip Clare, Foreman St. Rep'rs.

M. J. Cummings, Wm. Bryan, Edwd.
Moran, Patrick Kendy, W. H. Jordan.

John Hanna, Foreman St. Rep'rs.

Chas. Hart, Dan'l McNamee, John Mor-
risey. Geo. W. Williams, W. H.
Murtha.

James J. Kerwin, Foreman St. Rep'rs.

F. H. McGuire, Dan'l O'Connell, W. H.
Murtha, H. McLaughlin.

Geo. H. Newson, Foreman St. Rep'rs.

Dominick H. Roche, Michael J. Coffen,
Jos. McMahon, A. W. Ford, M. D.

F. J. Kenny, Foreman St. Rep'rs.

Michael J. Coffey, John Cusock, T. J.
Buckley, Jos. J. Garland, John Keaneny.

B. F. Shevlin, Foreman St. Rep'rs.

Wm. McKee, John Ennis, Canice Cassin.

Thos. Denigan, Foreman St. Rep'rs.

Thos. McNoble, Patrick Daurigan, An-
drew McDonald, John Malley.

S. J. Dunham, Foreman St. Rep'rs.

J. Jeff Black, Geo. G. Brown.

M. H. Godfrey, p. 42, Garb. Insp.

Chas. B. Elliott, Levi Holmes, John F.
Neeson, Patrick L. Cullman.

Mathaias Johnson, Garb. Insp.

Wm. Vincent, R. Thurston, W. H. Bryan,
Jos. Bryan, E. McNamara.

Anthony Cafiera, Garb. Insp.

W. H. Murtha, Edmund A. Kollmeyer,
Wm. A. Furey.

J. A. Nash, Garb. Insp.
John Courtney, P. J. Doyle, Edward
Moran.

G. A. Daly, Garb. Insp.
H. McLaughlin, W. H. Murtha, Wm. A.
Furey, F. A. McGnire, Jos. H. Winters.

J. F. Camman, Garb. Insp.
Jas. H. Tully, Francis Nolan, Jas. J.
Fielding.

W. F. Thompson, Garb. Insp.
S. L. Rowland, Wm. B. Lefarge, Noah
Alton.

J. O'Brien, Garb. Insp.
Robt. B. M. McHugh, Henry Bornkamp,
M. E. Finnegan.

Pat. Finnegan, Garb. Insp.
W. McKee, Caince Cassin, John Ennis.

P. J. Murphy, Garb. Insp.
Edw. Boquale, John McGroaty, Wm.
McQuade (liquors), Peter Pigott, Andrew
A. Cox.

F. Herbrand, Garb. Insp.
Andrew Beck, Geo. H. Lindsay, Ulrich
Maurer, Anthony Felton, J. B. Kost.

Mich. Williams, Garb. Insp.
A. McClennan, John Harrison, J. T.
Easton.

John Esmus, Garb. Insp.
J. V. McIllduff, E. W. Price, M. J. Cum-
mings.

Dec. 7, 1886. W. T. Wooley, p. 43, Clerk.
Wm. A. Furey, Geo. W. Andrews, Wm.
R. McGuire, A. H. Walkley, B. J. York.

May 18, 1886. Wm. Bryan, p. 46. Insp. Re-survey.
Geo. W. Brooks, Geo. G. Brown, John
Cottier, Chas. Rosweiler, Chas. C. Wis-
sel.

Robt. D. Mershan (V). Insp. Re-survey.
 E. A. Kollmeyer, Patrick Hayes, Jas.
 Kane, S. Shaughnessey, M. J. Cumings.
 W. J. Donohue, p. 47. Insp. of paving, &c.
 Thos. M. Nolan, Jas. McGroaty, W. H.
 Murtha, Stephen F. McDonough, Thos.
 F. McDonald.

Michael Tobin, Insp. of paving, &c.
 John F. Neeson, John Delmar, John B.
 Longley.

June 5, Michael McGinley, Insp. of Water Pipe, &c.
 Anthony Barrett, Alden S. Swan, Geo.
 B. Abbott, Robt. T. Canning, Henry J.
 Cullen, Jr.

May 18, 1886. J. Culhane, p. 48, Keeper at Pipe Yard.
 N. Ryan, M. J. Coffey, Henry J. Rorke,
 Geo. W. Dugard, Wm. Kruegur.

James Keating, p. 48 (V), Insp. of St. Reprs.
 Chas. A. Barlow, T. F. Donovan, F.
 Doyle.

John O. Sullivan, (V), p. 49, Insp. of Re-
 pairing Sts. torn up by Gas. Co.'s.
 E. D. Norris, Pat. Hayes, Thos. Cook,
 Wm. A. Brown, Peter Mahoney.

July 1, 1886. John Hosey (V), p. 49, Insp. of Bldgs.
 James McGarry, John J. Gallagher, Owen
 Nolan, B. F. Strauss, Jas. G. Tighe.

J. W. Cliff (V), Insp. of Bldgs.
 Marinus & Gill, James Rodwell, Sam.
 Guthrie, George Langer.

Chas. J. McCarty, Insp. of Bldgs.
 John McQuade, Bernard Gallagher, Mich.
 McLoughlin, James Rodwell, Rev. Dr.
 Malone.

Bernard McCarren, Insp. of Bldgs.
 Thomas J. Kenna, Francis Nolan, Michael

O'Keefe, P. H. McCarren, Daniel McGrath.

- July 3, 1886.** Jas. O. Canfield, Insp. of Bldgs.
John Cottier, Geo. G. Brown, John F. Ryan, John Ennis, J. Jeff. Block.
- July 1,** N. Shaughnessy, Insp. of Bldgs.
Alfred B. Fountain, James Langan, C. H. Bogell, Robt. H. Fargue.
- July 1, 1886.** A. Mandeville, Insp. of Bldgs.
John Delmar, Theophilus Olena, John F. Neeson, Wm. A. Furey.
Augustus Convey, Insp. of Bldgs.
James Kane, Edw. Moran, Wm. Bryan, Wm. Hogan, James Dunne.
- Feb'y 26, 1887.** Geo. H. Murphy, p. 50, Rodman.
John Delmar, Thos. Pearsall, John Fay.
- July 7, 1886.** Dan'l J. Langton, Rodman.
John C. Fullerton, Sy. Shaughnessy, E. A. Kallmeyer, E. D. Morris.
- July 8, 1886.** H. A. Asserson, p. 51, Leveller.
Thos. C. McCollom, John F. Hamilton, John C. Spear,
- June 11, 1886.** Thos. F. Cavanagh, p. 52, Keeper of Reservoir.
James McNamee, W. H. Harrison, P. J. Gelson,
- June 10, 1886.** Owen Boilen, Keeper of Reservoir.
W. H. Murtha, Wm. A. Brown, John Delmar.
- June 3, 1886.** Edward Riley, p. 53, Insp. of Taps, &c.
Wm. J. Fay, Patrick J. Byrne, John McCarty, Elisha Thrall, Jr., W. H. Jordan.
Owen Hannivan, Insp. Taps, &c.
H. McLaughlin, Henry J. Cullen, Jr., Alden S. Swan.

- Pat. J. Haggerty, Insp. of Taps, &c.
Thos. F. Booden, Frank McElroy, Wm. A.
Downing, Wm. A. Furey, Wm. Cantwell.
- July 22,** John Nolan, Insp. of Taps, &c.
Peter Bennett, W. H. Murtha, H. McLaughlin.
- Nov. 13,** Alfred Gidding, Insp. of Taps, &c.
John McManus, Edward McGinniss, Jas.
Ward, Thos. Morley, F. J. Munson.
- June 10,** Joseph Cavin, Foreman Repair Yard.
Andrew Walsh, W. H. Jordan, John McCarty, D. McNamara, W. Doyle.
Chas. Lawrence, Foreman Repair Yard.
Jas. P. W. Cawthorne, W. H. Murtha,
Henry Hawkes, Wm. H. Goff, Van
Brunt Bergen.
- June 3, 1886.** Hugh McPartland, p. 54, Inspector of Sewers.
Lawrence J. Tormey, John L. Cameron,
John Hanley.
- W. Felters, Inspector of Sewers.
Joseph Maurer, Ulrich Maurer, Peter P.
Huberty, Andrew Beck.
- W. J. Lowry, Inspector of Sewers.
Wm. A. Furey, Robert B. Howard, Junius
A. Fuller (Brewer).
- Daniel J. Bohan, Inspector of Sewer Connections.
Thos. M. Nolan, Wm. A. Furey, W. H.
Murtha, James Rickard, F. B. Sidebotham.
- Jeremiah Kent, Inspector of Sewer Connections.
John B. Longley, John Delmar, John F.
Neeson.
- W. H. Falconer, Inspector of Sewer Connections.

Moses Engle, Jas. W. Birkett, Wm. Hogan, W. J. Cummings, Frank Gallagher.

- July 2, 1886.** John Duffy, p. 55, Oiler.
Henry J. Cullen, jun.; Robt T. Carming
(Wines, &c.), Geo. B. Abbott, Andrew McDonald.
- July 10, 1886.** F. A. Baker (V), p. 55, Chainman.
Ulrich Maurer, Geo. H. Lindsay, Theodore Maurer, Andrew Beck.
- June 3, 1886.** Thos. F. Farley, p. 56, Foreman Sewer Rep'r Yards.
Andrew Walsh, W. H. Jordan, John McCarty, Jacob Loesch, John Manning.
- June 21, 1886.** Thos. W. McGeary (v.) p. 57, Inspector of Plumbing.
Thos. J. Sheridan, E. B. Ecker, John H. Clayton, R. L. Scott, Andrew McClellan.
John J. Moore, Inspector of Plumbing.
John Delmar, John B. Longley, John F. Neeson.
Mich. Hanrahan, Inspector of Plumbing.
S. N. Garrison, Dan'l Ryan, Dan'l Lake.
- Nov. 13, 1886.** S. R. Kimball, Inspector of Plumbing.
Wm. Fanning, John Gilbertson, Geo. W. Anderson, F. C. Hockemeyer, Geo. Brown.
- June 15, 1886.** Jas. Osburn (V), p. 58, Mechanical Engineer.
Thos. J. McKenna, Francis Nolan, Dan'l McGrath, Henry Vogt & Bros., Wm. R. Taylor.
Michael O'Brien (V), Mechanical Engineer.
Edward Moran, Jos. Kane, Wm. Bryan, Wm. Hogan, Jas. Dunne.
Patrick Hogan (V), Mechanical Engineer.

Thos. A. Kerrigan, John Finley, Wm. A. Powers.

John Ruse, Mechanical Engineer.

E. D. Norris, Patrick Hayes, August Voegel, Thos. Cook, Anton Ferguson.

Jas. J. Heffernan, Mechanical Engineer.

Michael J. Coffey, W. J. Cummings, Thos. Gilbride, Wm. Fitzpatrick, John W. Cahill.

June 21, 1880. Jas. Doherty, Mechanical Engineer.

Wm. A. Furey, Neil F. Dougherty, Geo. H. Sterling, Dan'l W. Furqueson.

June 22, 1886. James F. Anderson, Mechanical Engineer.

Edward Freely, Jas. W. Ridgway, Thos. A. Kerrigan, John F. Moore, Jas. H. Flynn.

July 1, 1886. John E. Morrissey, Mechanical Engineer.

Harvey Tomlinson, W. J. Cummings, Michael J. Coffee, Jas. E. Sullivan, Edward J. Hayden.

James McNulty, Mechanical Engineer.

James I. Wood, Patrick Carolan, Otto J. Peterson, Jas. Dillon.

July 7, 1886. Thos. Kellett, Mechanical Engineer.

Wm. Hilton, John E. James, Wm. McKee, John Ennis, Francis E. Morgan.

July 1, 1886. John Fogarty, Mechanical Engineer.

Jas. H. Flynn, Fred'k A. Fox, Geo. H. Sterling, E. D. Norris, Wm. A. Powers.

Aug. 2, 1886. J. T. Butler, p. 59, Fireman,

Wm. Jeremiah, Geo. McMahon, Renben Riley, Fredk. W. Witte, L. Luckenbach.

Pat. Cassidy, Fireman.

(Not on file.)

- Michael Drummond, Fireman,
M. F. Reily, Peter Clerk, Francis Murray.
- Jas. Cullen, Fireman,
Peter Bennett, Jas. Brierton, Thos.
O'Brien, John Conlen, Nicholas Fitz-
patrick.
- Chas. Lowery, Inspt. of Water for Shipping.
Edwd. Moran, Jas. Kane, Wm. Hogan,
W. Bryan, Jas. Tobin.
- Thos. F. McDonald, p. 60, Mason,
Danl. O'Connell, Wm. A. Furey, Thos. R.
Farrell, Herman Mahnken, Robt. J.
McKay.
- Francis Farrell, Mason,
Edwd. Moran, Jas. Kane, W. Bryan, Wm.
Hogan, Jos. Dunne.
- Jarvis Whitinan, p. 61, Draughtsman,
W. H. Murtha, John Delmar, W. Barre.
- R. J. Powell, Calker,
Thos. F. Thornton, Jas. Dillon, Thos. H.
Clear, John H. Bournington, Thomas
Reynolds.
- J. D. Harrington, Calker
Wm. J. Lane, Peter Bennett, John Cun-
ningham.
- T. J. Morrison, Calker,
Jas. McGarry, Baldwin F. Strauss, Jas. T.
Tighe, John T. Gallagher, John J.
Ennis.
- Thomas Travers, p. 62, Carpenter,
Chas. Frevort, Wm. Blanchfield, Thos. M.
Cleary, M. D., James Fletcher, Edwd.
Slevin.
- F. Wagner, Keeper of Ponds and Streams.
Chas. H. Lindsay, Franz Beck, Louis G.
Froehrer, Anton Schimmel.
- E. J. Burrows, p. 67, Machinist and Helper.

Saml. A. Livingston, Richd. Pickering, J.
K. Power, Wm. J. Bennett, Matthew
Cooper.

B. McCarty. Machinist and Helper,
Wm. P. Carey, Thos. R. Farrell, John J.
Wheeler, Thos. T. Victory, Danl. Gal-
lagher.

M. J. Murray, Machinist and Helper.
John Gillies, Moses Engle, Chas. B.
Elliott, Lawrence Harve, N. W. Fitz-
gerald.

W. Walsh, Machinist and Helper,
Elisha Theall, Jr., John Courtney, Wm.
Taylor & Sons.

William Madden, p. 67, Blacksmith,
Wm. Arthur, Wm. K. Thomas, Richd.
Nagle, Geo. H. Sterling, Archibald
Lamon.

J. J. Judge, Blacksmith,
John Finley, W. A. Powers, Danl. J.
Rourke.

William Cheney, Inspt. of Extra Water
Rates,
Wm. Barre, W. H. Murtha, Jas. R. Mc-
Gee, H. H. Adams.

John J. Kennedy, Inspt. of Extra Water
Rates,
John Laughlin, Chas. De Frain, John
Jackson.

John Barrett, Inspt. of Cut-off Water,
Jas. Laughran, Thos. D. Jones, Geo. L.
Fox, Saml. S. Free.

John P. Ford, p. 69, Insp. of Street Con-
struction.
John Courtney, W. Barre, John J. Lad-
ley.

Alfred Giddings, Insp. of Street Const'n.

Anthony Barrett, Henry F. Haggerty, Wm. Downing.

John H. Ames, Jr., Insp. of Street Const'n.
John M. Ranken, Peter Mahoney, Patrick Hayes, E. D. Norris, John Fogarty.

Daniel G. Kenney, Insp. of Street Const'n.
A. McClellan, John Harrison, John W. Flaherty.

John McDermot, Insp. of Coal.
Aaron G. Michaels, Wm. A. Furey, Thos. H. York, B. J. York.

John Dolan, p. 70, Insp. Steam Boilers.
Peter J. Donohue, Francis Nolan, Wm. R. Taylor, Harriet Collins, Michael O'Keefe.

Patrick Coffey, Insp. Steam Boilers.
Peter Kilby, Michael J. Collins, John O'Brien, James McMahon, J. W. Fitzgerald.

John P. Smith, p. 71, Engineer and Machinist.
John Connell, Thomas C. Harden, James Bulger, Thomas F. Farrell, Patrick Hayes.

Dennis Gleason, p. 73, Machinist.
Wm. A. Powers, James H. Flynn, Thos. F. Powers, Jas. B. Bourk, John Finley.

J. P. Courtney, Machinist.
Henry B. White, Thos. H. York, Neal McGoldrick, Jas. Lynch, John F. Frost.

Pat. H. Corrigan, p. 28, Supt. of Truant Home.
J. Stewart Ross, John H. Graham, Brewster Kissam, Theo. D. Neilson, Wm. Fanning.

John G. Law, p. 34, Clerk.

Patrick Croke, Francis H. McGuire, Hugh McLaughlin.

G. H. Smith, Clerk.

Andrew Wisal, B. F. Gott, Beton Rockwell, Rodney Thursby, Jas. Mbrphy.

J. Fagan, Clerk.

Walter A. Cooper, W. L. Cameron, Martin J. Fitzgerald.

L. C. d'Homergue, Clerk.

Wm. Foster, Wm. C. Maguire, Fred'k H. Gladwish, Carston Opperman, John Z. Lott.

E. E. Underwood, Clerk.

John Bogert, Robt. Van Buren, John M. Bullwinkle, J. M. de Valnova.

Wm. Daley, Clerk.

P. J. McCaffrey, J. B. Sidebotham, Jr., W. H. Muldoon, Garret Cullen, P. J. Farrelly.

T. D. Sherlock, p. 39, Watchman.

Francis Nolan, Dan'l McGrath, P. H. McCann.

John F. Lynch, Watchman.

M. J. Cummings, Jas. Kane, Julius Mathais, Mat. Harford, T. F. Evers.

Dennis Hennessy, p. 60, Keeper of Bath.

John W. Cahill, M. J. Coffey, Matthew Keogh, John Madigan, M. G. Pendergast.

Adjourned to to-morrow, Saturday, March 19, 1887, at 10 A. M.

COMMON COUNCIL CHAMBER,

BROOKLYN, N. Y.

March 19, 1887.

Met pursuant to adjournment, all the parties being present as stated heretofore.

James E. Kelly, being duly sworn and examined as a witness, testifies as follows :

BY MR. GOODRICH : Q. What is your occupation ?

A. I am a speculator.

Q. Where do you reside ?

A. 75 West Forty seventh street, New York.

Q. Did you have any business with the Coney Island Jockey Club in the years 1883, 1884, 1885 and 1886 ?

A. Yes, sir.

Q. What business was it ?

A. Principally bookmaking.

Q. What is bookmaking ?

A. Bookmaking is a new invention, or rather an old invention that we copied from England since the Pool Bill passed:

Q. Describe it as briefly as you can ?

A. It is a ready way of betting on any event between one man and another.

Q. Is it a sort of registered betting ?

A. It is registered generally ; you are not obliged to register it though.

Q. What articles are required in bookmaking ?

A. Merely a pencil and paper.

Q. What is pool selling ?

A. Pool selling is the old fashioned way that they had here some years ago of selling auction and French pools. An auction pool would be the auctioning off of first chance, second chance, third chance, and so forth ; but that kind of betting is obsolete now ; the bookmaking has run it off the track.

Q. What articles were required for pools or pool selling ; what were the paraphernalia of pool selling ?

A. An auction by the seller or clerk and giving a paper ; that is all.

Q. Was there also a blackboard or board upon which numbers were conspicuously displayed ?

A. For French pools there was.

Q. Was the system of French pools in vogue at Coney Island race course in 1883, 1884 and 1885 ?

A. It was in vogue in 1883 and 1884, I think. Latterly they haven't had any such thing—the last few years.

Q. Were you the lessee of certain privileges at Coney Island race course ?

A. Yes, sir.

Q. What privileges were those ?

A. The privileges of conducting this business.

Q. The conducting of the business of pool selling ?

A. Yes, sir.

Q. Which is another game of gambling, is it not ?

A. We call it book making ; there was no pool selling in the last couple of years.

Q. But before that ?

A. Before that there was.

Q. Pool selling is a species of gambling, is it not, Mr. Kelly ?

A. Pool selling ? I should judge it was.

Q. Is book making another species of gambling ?

A. I think it is.

Q. You say that you had certain privileges at Coney Island—at Sheepshead ?

A. Yes, sir.

Q. What association was it that ran the Sheepshead racing course. It was the Coney Island Jockey Club, wasn't it ?

A. Yes, sir.

Q. Describe a little more carefully what privileges you had there in connection with pool selling in 1883 and 1884 ?

A. I had the privilege of pool selling in 1883 and 1884.

Q. What did you pay the Club for that privilege ?

A. I paid them a very large amount of money.

Q. How much was it in the year 1883?

A. I can't tell you exactly.

Q. Approximate it?

A. In the neighborhood of \$4,000 a day.

Q. In the neighborhood of \$4,000 a day?

A. Yes, sir.

Q. That was in 1883?

A. 1883 and 1884.

Q. Was this amount fixed by the result of the pools or by a positive and actual payment?

A. I paid them an actual positive payment.

Q. What was the largest sum you ever paid that club for a single day's privilege of pool selling?

A. I had a contract with other people to get that privilege and give a stated amount per day. That amount, the largest amount, has been \$5,100 a day.

Q. How many booths did you have, or how many were there in actual open use at Coney Island during the year 1883?

A. Somewheres in the neighborhood of twenty-five.

Q. How was it in the year 1884?

A. About thirty.

Q. And in 1885?

A. About forty.

Q. And in 1886?

A. It increased a little in 1886.

Q. How much?

A. Somewhere in the neighborhood of about ten booths.

Q. Then it was seventy in 1886?

A. About sixty in 1886.

Q. During the years to which you have referred, was gambling in the shape of pool selling or of bookmaking open, notoriously and publicly carried on at the Sheepshead Bay race track?

A. Bookmaking was carried on at Sheepshead Bay.

Q. Was poolselling in the previous years carried on in the manner that I have included in my question?

A. Not in the last few years.

Q. What do you mean by the last few years; was it in 1883, 1884 and 1885?

A. In 1883 and 1884 it was ; not in 1885 or 1886.

Q. In 1885 or 1886 the method of accomplishing the betting was by bookmaking ?

A. Yes, sir, bookmaking.

Q. Was it a matter of public notoriety on the track ?

A. Any one could see it that walked into the arena.

Q. Could any one walk into the arena without seeing it ?

A. They could walk to the race track without seeing it.

Q. Whereabouts as regards the grand stand was what you call the arena ?

A. About fifty feet north of the grand stand.

Q. And where were the booths for pool selling as regards the grand stand ?

A. From fifty to two hundred and fifty feet north of the grand stand.

Q. And this arena north of the grand stand is the best and most frequented part of the race track, is it not ?

A. It is the least frequented part of the track, except for those that want to bet. It is completely out of the way of those who don't want to bet. They never would get to see it.

Q. Isn't it a fact that that part of the arena where the pools are situated was thronged during the running of the races ?

A. Sometimes.

Q. Usually so, was it not ?

A. Not always.

Q. Usually, was it not ?

A. Occasionally it was crowded.

Q. Have you any idea of the amount of money which passed through the booths in 1883 ?

A. I have not.

Q. You can give me some idea of it, can you not, Mr. Kelly ?

A. I cannot.

Q. Was it three millions of dollars ?

A. That is impossible to tell, because every man is a tub on his own bottom.

Q. Did you sublet the privileges that you acquired in all these years ?

A. Yes, sir.

Q. All of them?

A. Not all.

Q. How many did you retain for yourself in 1883?

A. In 1883 I retained a part of the business for myself, and sublet the rest to others for bookmaking.

Q. How much did you retain in 1883; a half, a third, a quarter, or what?

A. Something like half.

Q. How much money passed through your booths in 1883?

A. That it is impossible for me to tell.

Q. Well, you may give some approximate amount, can you not?

A. I have taken in myself as much as fifty thousand dollars in a day.

Q. Was that a fair day's work?

A. Rather a large day's work.

Q. Have you ever taken any larger amount than that in one day?

A. I think not.

Q. And what proportion of the booths at Sheepshead Bay did you occupy during the days when you took in about fifty thousand dollars in a day?

A. What proportion?

Q. Yes, of the booths?

A. I had charge of the auction and French pools at that time.

Q. There were other auction and pool selling places at that time, were there not?

A. Not at that time.

Q. There was other gambling going on at the same time, was there not?

A. Yes, sir.

Q. In 1884, what is the largest amount that you remember to have received at any one day?

A. About the same.

Q. And in 1885?

A. About the same.

Q. And in 1886?

A. In 1885 and 1886 that species on business was not carried on.

Q. But it became book-making, and did you participate in the book-making?

A. Yes, sir.

Q. How much did you receive in one day in 1885 at book-making?

A. Individually?

Q. How much passed through your hands?

A. About twenty thousand dollars,

Q. Is that the largest?

A. It may have been a few thousand dollars.

Q. About how much?

A. About twenty thousand dollars.

Q. Was there any day when fifty thousand dollars passed through your hands in 1885 at book-making?

A. Individually, no, sir.

Q. Well, through your hands or through the hands of your agents, or those who were interested with you in the business?

A. No, sir.

Q. Not more than that?

A. Not more.

Q. And during 1885, what proportion of the booths did you control?

A. I had but one booth in about thirty-five.

Q. So that there passed through your one booth twenty thousand dollars a day on the average in 1885; is that correctly stated?

A. Yes, sir.

Q. That is one out of forty-five?

A. Yes.

Q. Were the other forty-four booths running to all appearances as successfully as yours?

A. No, sir.

Q. Was this the largest one?

A. Mine is one of the two largest.

Q. Who had the other largest; the other one of the two largest.

A. Mr Johnson.

Q. Where does he live ?

A. In New York.

Q. Do you know his first name ?

A. David.

Q. Whereabouts in New York does he live ?

A. He lives somewhere in the neighborhood of 49th Street.

Q. Don't you know any nearer than that ?

A. I do not know exactly where he lives, but I can tell you within a house or two.

Q. Describe it ?

A. It is 49th Street.

Q. West or east ?

A. It is West 49th Street near 7th Avenue.

Q. Which side of the street ?

A. It is on the south side.

Q. Which side of 7th Avenue ?

A. It is between 7th Avenue and 6th Avenue.

Q. One or two doors east of 6th Avenue ?

A. He and his father between them own a house there, and I should judge he lives with the father; it is very easy to find him.

Q. During the year 1883 what proportion of the summer were races run on the Sheepshead Bay course ?

A. They ran ten days in the summer and ten in the fall.

Q. What months ?

A. About the first part of June and September.

Q. In the year 1884 how many days of racing were there on the Sheepshead Bay course ?

A. About the same number, ten in the spring and ten in the fall.

Q. And in 1885 ?

A. Ten in the spring and ten in the fall.

Q. And in 1886 ?

A. Ten in the spring and ten in the fall.

Q. Not more than that ?

A. There might have been eleven.

Q. Not more than that ?

A. Not more than eleven. There never has been more than eleven days run in one meeting.

Q. Did you have anything to do with the payment of money excepting the payment of four thousand dollars a day or whatever sum you paid to the Coney Island Association ; that is did you pay anything for the protection or for police or for any other expenses except your daily contract ?

A. We never got any protection.

Q. My question is whether you paid any money in any way in connection with your gambling booths except the daily contract price to any one ?

A. No, sir.

Q. You were not charged with a portion of the police service, were you ?

A. The police service is served by Mr. Pinkerton, for the race track.

Q. That you had nothing to do with ?

A. No, sir.

Q. Were there times during all these years when a large number of police were engaged at Sheepshead Bay to preserve the peace ostensibly ?

A. Yes, sir.

Q. And did these police officers protect and preserve the line of men who were coming up to make bets or purchase pools at the various booths ?

A. There were to preserve order and they appeared to do it.

Q. And were there times when there was what New Yorkers call a " Post-office " of men walking up to the booths to make their bets ?

A. Sometimes there were.

Q. Did the police during that time preserve or keep those people in order and arrange the lines ?

A. I never noticed that.

Q. The police were there at the booths were they not during all the time that you have been there ?

A. Those men that attend races are very orderly people and don't require any one to keep them in line.

Q. Opinions might possibly differ on that subject, Mr. Kelly ; please to observe my question and give me an answer ; my question is, the police were there at the booths,

were they not, during all the time that you have been there?

A. The police have always been there.

Q. And they were at the gambling booths, were they not?

A. At the booths?

Q. Where the pools were being sold and the bookmaking was indulged in?

A. There might be one or two policemen in the whole arena where there are forty-five booths.

Q. Haven't you seen policemen about these gambling booths while gambling was going on?

A. I have seen one or two.

Q. Do you say that you never saw more than one or two policemen about those gambling booths?

A. Never.

Q. One or two each day?

A. That is all.

Q. Or at any time?

A. One or two, yes, sir.

Q. But those were there all the while while gambling was going on, were they not?

A. Well, sometimes it would be one or two of one description and one or two of another. I never have seen any one or two particular ones.

Q. Were the police all uniformed?

A. Yes, sir.

Q. All of them?

A. Yes, sir.

Q. Do you know how many police there was at the Coney Island race track during all these years?

A. I couldn't judge how many they had.

Q. Over one hundred?

A. I don't know how many.

Q. Was there any difficulty in these policemen seeing and knowing that bookmaking and pool selling was plainly practiced during those years while that system of gambling was in vogue — while pool selling was in vogue and afterwards while bookmaking was going on during the latter years while that system was practiced?

A. No difficulty then.

Q. And the pool selling was carried on out in plain sight?

A. Yes, sir.

Q. So that it would be impossible for any officer to be in the pool arena or in the betting arena without knowing that gambling was going on?

A. Yes.

Q. And were you called upon in your subpoena to produce your books of account of all business transactions with the Coney Island Jockey Club Association at the Sheepshead Bay race track during the year 1883, 1884, 1885 and 1886 and the business during those years relating to the bookmaking, betting or pool selling on that race course in the town of Gravesend?

A. Yes, sir.

Q. Did you at any time keep any books or accounts?

A. No, sir.

Q. None whatever?

A. Our business don't call for it.

Q. It is esteemed safer not to keep books, is it?

A. No, sir; that is the idea.

Q. What is the idea?

A. Our business, when the day's work is done is all complete; the moneys that are about my pocket belonging to me. It isn't necessary to keep any books or papers.

Q. Do you keep a bank account?

A. Yes, sir.

Q. Where is the bank account?

A. Second National Bank.

Q. And has it been there during all these years?

A. It has been there for a number of years.

Q. Did you draw checks for the per diem that you paid the race track — The Coney Island Jockey Club?

A. No, sir.

Q. And that was paid in cash?

A. No, sir.

Q. How was it paid?

A. Paid by my partner.

Q. How did your partner pay it; in cash or in checks; do you know?

A. I don't know.

Q. Where is your partner ?

A. He is in Florida ; he goes there every winter.

Q. When did he go to Florida ?

A. About a month ago.

Q. What is his name ?

A. Chauncey S. Bliss.

Q. About a month ago he went ; that is since this investigation was ordered by the Assembly of the State, was it not ?

A. No, sir ; I think not ; I think it was before it.

Q. Do you know where his books are ?

A. He has no books.

Q. He has a check book, has he not ?

A. He has.

Q. Is that a partnership check-book ?

A. He has a partnership check-book.

Q. What is the firm under which you and he conduct business ?

A. Kelly & Bliss.

Q. Is that the only bank account that you keep for the firm ?

A. He keeps a private bank account and I keep a private bank account.

Q. Is there any means of ascertaining by a record save by his check-books what sums were paid to the Coney Island Jockey Club ?

A. No, sir.

Q. The sums paid for privileges on that track ?

A. No, sir.

Q. Mr. Kelly, do you keep the moneys in the firm account or in the private account of the partners ?

A. Mr. Bliss kept our moneys in the firm's account.

Q. Which bank was that ?

A. The Second National Bank. I know that he paid the the money.

Q. When were you in the habit of depositing moneys which you deposited there ; money received from pool-selling or book-making ?

A. He deposited the money.

Q. At the close of each day?

A. He deposited the money.

A. I know, but I ask you if you know when he deposited the money?

A. I don't know when he deposited the money.

Q. Was it at the close of each day or at the beginning of the next day.

A. Sometimes he deposited it at the close of the day and sometimes he wouldn't.

Q. Was all the money which you thus received from gambling operations deposited in that bank day by day?

A. That I don't know.

Q. Was it the intention that it should be so deposited?

A. I don't know.

Q. The reason I ask you is to know whether there were payments in cash before the day's proceeds were deposited or whether the whole sum was deposited in your bank?

A. I don't know exactly how he made his payments; but I am pretty positive they were principally in cash, in greenbacks.

Q. Of course, none of these gambling operations are ever made in checks, are they?

A. I have had so little to do with gambling operations that I don't know much about it.

Q. Don't you call pool-selling gambling?

A. I do.

Q. Don't you call book-making gambling?

A. I do.

Q. You have had a good deal to do with those forms of gambling?

A. That is all; yes, sir.

Q. But you have had a good deal to do with those forms, though, in your operations during the past four or five years?

A. Yes, sir, quite a good deal.

Q. What was the special part of the business which you conducted in your firm of Kelly & Bliss?

A. The special business that I had was to try to secure

privileges from the different race tracks in the different States.

Q. In the different States ?

A. Yes, sir.

Q. What was Mr. Bliss's share of the business ?

A. His share principally was to attend to the monied transactions and clerk-hire and so on.

Q. Collecting the money, paying the clerks and paying the expenses of the business ?

A. Yes.

Q. And making a fair division with you ?

A. Yes, sir.

Q. So that he would have more knowledge of the subject than you ?

A. Yes, sir.

Q. When was the Coney Island Jockey Club established, about ?

A. About six years ago.

Q. That was about 1880 ?

A. Before that.

Q. When was Brighton Beach race course established ?

A. I know very little about Brighton Beach.

Q. Can you tell me when it was established ?

A. It might be eight or nine years.

Q. And the Brooklyn Jockey Club—when was that established ?

A. Last year.

Q. Can you give me a general idea of whether there was more gambling on the Sheepshead Bay race course or on the Brighton Beach race course during the years to which I have referred ; or was it about the same ?

A. I never have been on the Brighton Beach race track but twice in my life.

Q. Is it a matter within your knowledge from general report whether the one was greater than the other ?

A. I should judge that Coney Island race track was the largest.

John Y. McKane, being duly sworn and examined, testifies as follows :

BY MR. GOODRICH: Q. How long have you been Supervisor of Gravesend ?

A. I was elected in 1879.

Q. And have been in office as Supervisor since that time continuously ?

A. Yes, sir.

Q. Are you elected annually ?

A. Every other year.

Q. Biennially ?

A. Every two years.

Q. How long have you resided at Gravesend ?

A. I have resided there for forty-two years.

Q. All your life ?

A. Pretty much, yes.

Q. Is Coney Island a part of the town of Gravesend ?

A. Yes, sir.

Q. When was it that Coney Island first came into prominence as a place of resort ?

A. I suppose it was about 1882—1880 or 1882 ; somewhere about there.

Q. When was the first railroad from Brooklyn built ?

A. I could not tell you exactly ; I suppose about eighteen years ago ; probably that. Gunther's railroad ; probably more.

Q. Was that a steam railroad or horse railroad ?

A. Steam railroad.

Q. When was the railroad popularly known as Culver's railroad built ?

A. I guess that is about probably fourteen or fifteen years or somewhere in that neighborhood. I could not tell within a year or so.

Q. The establishment of the Culver railroad was really the practical opening of Coney Island as a summer resort, was it not ?

A. It has something to do with it ; the boulevard also.

Q. What are the departments, executive, judicial and financial of the town of Gravesend ?

A. The Supervisor, four Justices of the Peace, the Town Clerk, the Commissioner of Highways and a constable ; that is about all the officers.

Q. Are there certain officers known as trustees ?

A. Oh, yes ; Trustees of Common Lands ; yes, sir.

Q. What is the difference between Trustees of Common Lands and Commissioner of Lands ?

A. Some five or six years ago, or seven or eight years ago, the people of the town controlled the matter themselves. At the annual town meeting, they passed a resolution to elect three commissioners for the purpose of taking care of the land ; but after a while my predecessor, Mr. Stillwell, and some others talked the matter over and thought it would be well to elect trustees ; that is to pass a law governing Coney Island, so that they could sell it. The Legislature passed an act making it obligatory on the town for to elect five trustees at their annual meeting.

Q. Trustees or commissioners ?

A. Trustees of Common Lands ; that is the title.

Q. Will you explain to the Committee what you mean by common lands and what is the extent of these common lands, or what the extent was ?

A. All lands that is not claimed by private individuals.

Q. What was the extent of those lands thirty years ago ?

A. About two or three hundred acres.

Q. Did it embrace the sea front of Coney Island ?

A. Yes, sir.

Q. And what is the length of that sea front ?

A. It is calculated to be about five miles, and I should say it was between four and five miles long.

Q. And how wide a strip was it ?

A. On an average about half a mile.

Q. And how many acres do you think that contained ?

A. Well, I think three hundred acres, probably ; more or less ; I can't tell.

Q. A strip five miles long and near half a mile wide, is that only three hundred acres ?

A. I haven't figured it : I am only guessing at it.

A. Ocean Parkway.

Q. That runs nearly north and south, does it not?

A. Very nearly.

Q. To the eastward of that line lie Brighton Beach Hotel, Manhattan Beach and the Oriental?

A. Yes, sir.

Q. And to the westward of that line lie what is known as Norton's Point, and the village itself?

A. Yes, sir.

Q. Is that correct?

A. That is right.

Q. And also the Iron Pier, or the old pier and the new pier?

A. Yes, sir.

Q. Both lying to the eastward of the Ocean Boulevard?

A. Yes, sir.

Q. Whereabouts in the village are the police headquarters?

A. In a new street opened through there called 8th street.

Q. And near Surf Avenue?

A. Very near Surf Avenue.

Q. How far is that police headquarters from what is known as Culver's railroad depot?

A. Do you mean in a direct line?

Q. Yes, in a direct line?

A. I suppose about a thousand feet.

Q. To the eastward or westward of it?

A. To the northwest.

Q. Is there an association down there known as the John Y. McKane Association?

A. I think there is.

Q. It is an influential association, is it not?

A. Well, I don't know.

Q. I want a frank answer from you, Mr. McLane; isn't that an influential democratic association?

A. It is one of them, yes, sir.

Q. What is the membership of that association?

A. I cannot tell you; I don't belong to it.

Q. Approximate it for me?

A. It might be a hundred members.

Q. Are there not 250 members ?

A. Might be 300 for all I know, but I can't tell you.

Q. Don't you think there are 250 members ?

A. I don't think there is, no ; and yet I can't say for truth ; I want to tell you the truth.

Q. Certainly, I ask you for nothing else ?

A. I can't tell you, because I don't know.

Q. Is there another association known as the John T. Hinman Association, or something like that ?

A. Yes, sir.

Q. Is that also a democratic association ?

A. I believe it is.

Q. And what official relation does Mr. Hinman hold towards you in any of the positions which you occupy ?

A. He is appointed for three months of the year Captain of Police.

Q. Under whose appointment ?

A. The Board of Police Commissioners.

Q. Of which you are the head ?

A. I am one of the members.

Q. Of which you are the head ?

A. I am President of the Board ; yes, sir.

Q. How many members are there in the Hinman Association ?

A. I think, to the best of my knowledge, that they joined both associations. Probably the whole together might run up to the number of three hundred.

Q. What is the average vote of Gravesend, the total vote ?

A. We have voted as high as a thousand at one election.

Q. That is about the average vote, isn't it ?

A. The average is about eight or nine hundred.

Q. I forgot to ask you whether there is a republican association in the town ?

A. I am not a member of that, and I couldn't tell you.

Q. Do you know by common rumor whether there is or not ?

A. There is ; yes, sir.

Q. What is the membership of that ?

A. I could not tell you.

Q. Is it a large and flourishing organization, or is it rather a feeble one?

A. They number from two to three hundred.

Q. Do you include in that all of the republican voters?

A. I think that is about the average; yes, sir.

Q. Will you tell me what the proportion of the democratic vote is to the republican vote?

A. Well, if there are nine hundred, there would be a proportion of about three to one.

Q. I will read you, if you will accept my figures, a memorandum taken from the Brooklyn Eagle Almanac; vote for Cleveland, 1884, 667 to 295; and for Hill, in 1885, 697 to 185; is that about a fair proportion of the political division in the town of Gravesend?

A. That is about right; yes, sir.

Q. Is it not true, Mr. McKane, that you control substantially the democratic side of politics in that town. I want a frank statement of that from you?

A. Myself, individually, do you mean?

Q. Whether you are not the great head of it?

A. I am the Supervisor of the town; yes, sir.

Q. Are you not the gentleman who really controls the democratic politics of Gravesend?

A. I am one of them. I don't control it alone.

Q. Do you know anybody who has more control than Mr. John Y. Kane?

A. Well, I don't know that I know anybody that has got any more; no, I think not.

Q. Is there anybody who has got as much, Mr. McKane? MR. GREENE; Is this what we are sitting here for? To find out who are democrats and who are republicans?

MR. GOODRICH: I think the purpose of the examination will be apparent in a few minutes.

A. I think there are some people who are just as popular as I am in that town.

Q. How many Inspectors of Highways are there?

A. Three.

Q. You are quite a popular man, and I must ask you to forget your native modesty in answering my question; you are a popular man in Gravesend, are you not, and so pop-

ular that no person was nominated against you for Supervisor last year?

A. That is right.

Q. So that in fact you had the total vote of the town for you?

A. The last time; yes, sir.

Q. As Supervisor, what positions do you fill ex-officio?

A. By virtue of being Supervisor, do you mean?

Q. Yes, sir.

A. I fill the position of President of the Board of Health, President of the Town Board, President of the Police Board and President of the Water Board.

Q. And also of the Board of Town Auditors?

A. Yes, sir. If you will allow me to make a statement right here so that it will be fairly understood, I will be obliged to you, because I have been misrepresented. I hold those positions by virtue of being Supervisor of the town. I hold them by the general laws of the State of New York which every supervisor of every country town holds; it is so in the towns of New Utrecht and Flatlands and Flatbush; they are in the same position. I want to state that, so that it will be clear, because I have been misrepresented in the papers.

MR. GOODRICH: We will give you ample opportunity, Mr. McKane, to make any explanation that you desire at any time during the examination.

THE WITNESS: Thank you.

MR. GOODRICH: And I hope you will exercise that right with great freedom.

THE WITNESS: I am obliged to you.

Q. Who are the Justices of the Peace at present holding office?

A. Jacques S. Stryker.

Q. A republican?

A. Yes, sir; and Judge McMahon.

BY MR. COLE: Q. He is a republican?

A. No, sir; he is a democrat. And Judge Waring and Judge Newton.

BY MR. GOODRICH: Q. The last three are democrats?

A. Yes, sir.

Q. When were they elected?

A. Judge Stryker was the last one elected.

Q. And when were the other three elected?

A. One every year; they go back one year.

Q. By virtue of their offices as Justices of the Peace, do they comprise with you the Board of Police Commissioners, the Board of Health, the Town Board, the Board of Town Auditors and the Water Board.

A. By virtue of their office, yes, sir.

Q. So that the complexion or the composition of these five boards is identical?

A. Yes, sir.

Q. What is the function of the Town Board?

A. They meet for the purpose of talking over matters relative to town improvements, opening of streets, &c.

Q. Is that what you would call the executive body of the town?

A. That is the executive body, yes, sir.

Q. Something assimilated to the functions of the Aldermen in the City of Brooklyn?

A. About the same.

Q. The functions of the Board of Police Commissioners, and the Board of Health and the Water Board are indicated by their respective names?

A. The board of Police Commissioners was established by a separate law passed by the Legislature in 1886. The other offices are all held under general laws.

Q. What is the function of the Board of Audit?

A. The Board of Audit does all relative to the bills of the town or bills against the town.

Q. Is it true that any two of the Justices of the Peace may audit the bills of the other three boards?

A. Any two of the Trustees?

Q. Yes, by Chapter 305 of the Laws of 1840; isn't it true that by the Laws of 1840 any two of the Justices of the Peace may audit and pass bills?

A. No, sir, I don't know anything by that part. We never do it.

Q. You never have exercised that power?

A. Never have exercised that power; we always have a Supervisor and four Justices of the Peace and the Town Clerk.

Q. What power has the Town Board to enter into contracts for improvements?

A. Under a law passed by the Legislature, giving the power to the Board of Supervisors to open streets, the Town Board have power in that way to say that it is necessary to have a public improvement, providing that the owners along the line object.

Q. And who is it of that Board that authorizes the execution of contracts?

A. After the application is made and before it is passed upon by the Board of Supervisors of Kings County the application is made to the Supreme Court, who appoint three Commissioners for that purpose.

Q. That is, for opening the highways, you mean?

A. Yes, sir.

Q. But aside from highways?

A. We have no power to make contracts.

Q. Have you any power to make contracts for sewers or for water?

A. No, sir.

Q. In what body does that power reside?

A. The Board of Health with regard to sewers, and the Water Board for water.

Q. Will you tell us what powers the Water Board has in the way of making contracts?

A. They have power under the general law passed relative to all towns, I guess, in this State.

Q. To do what?

A. To grant to any party or corporation to use the streets for the purpose of laying down mains and furnishing water to the inhabitants. That is a general law.

A. And the sewerage is under the Board of Health?

A. The sewers are under the Board of Health.

Q. And they have power to make contracts for constructing sewers?

A. Yes, sir.

Q. And you say that is conferred upon them by the Legislature?

A. Yes, sir.

Q. Come now to the Board of Health; what is their special duty?

A. The Board of Health is appointed under the Statelaw, as I understand it, and they have full control as such Board of Health. Of course there is a general law governing us that we work under.

Q. They have power to make contracts?

A. Under this special legislation they have. That is, as far as the sewers of Coney Island is concerned.

Q. Have you any idea as to the amount of contracts which have been made with either of these four boards; that is, the amount of money resulting from contracts made with either of the four boards in the town of Gravesend for any purpose whatever during the last ten years?

A. The only contract that we have made was in 1886.

Q. For sewers?

A. We made a contract for to build a sewer on Coney Island.

Q. What was the amount of that contract?

A. We issued bonds for \$236,000. The contracts are made per foot to the contractors.

Q. Who was the contractor for the building of that sewer?

A. Mr. Van Houghton?

Q. Who is Mr. Van Houghton?

A. He is a gentleman who resides in New Jersey.

Q. Has he any business relations with you whatever?

A. None whatever. I never knew the man until he came there to build.

Q. Who is Jacques S. Stryker: what other position does Jacques S. Stryker occupy in this county?

A. Assistant Clerk of the Board of Supervisors.

Q. Are you superintendent pro tem. of the Board of Supervisors?

A. Yes, sir.

Q. By virtue of that office do you appoint all the committees of the Board?

A. Yes, sir.

Q. That is a position of large influence and power, is it not?

A. I don't know as you can call it that. I have that power. I don't know as I exert very much power or control in it.

Q. The fact of your nominating all committees gives you as much power in the Board of Supervisors relatively as the speaker has in the House of Assembly, does it not?

A. I suppose it does in proportion, probably.

Q. In other words the five boards, of Police, Health, Town, Water and Audit are composed of the same five persons?

A. Now, if you will allow me to make an explanation of it I will do so.

Q. Answer my question first, please?

(Question read by the stenographer as follows):

Q. "In other words the five boards, of Police, Health, Town, Water and Audit are composed of the same five persons?"

A. Yes, sir.

Q. Mr. John Y. McKane by virtue of his office as Supervisor is President of each one of those boards?

A. Yes, sir.

Q. A contract may be awarded by the Town Board, carried out by the Board of Health, or the Board of Police Commission, and the bills for such services be audited by the Board of Audit composed of the same five persons. Is that true?

A. That is right.

Q. You said you wanted to make some explanation?

A. I wanted to explain that the law that was passed in 1885 or 1886 gives the people of the town power, on petition of twenty freeholders, to appoint a board of audit, and that our town has taken advantage of that; they have taken the necessary steps to appoint a board of audit independent of our five boards.

BY MR. GREENE: Q. I don't know as you understand—I want to see if the witness understands that in every town

in the State of New York, except where there is a special law governing it, there is a town board, and that the town board is the board of audit. You understand that to be so.

A. Yes, sir.

Q. And that the supervisor is a member of each and the president of each?

A. Yes, sir.

Q. And that there is in every town in the State, under general laws, a board of health?

A. Yes, sir.

Q. And the supervisor is a member of that?

A. Yes, sir.

Q. And that, with the exception of the police board, there is no difference in the town of Gravesend from the general towns of the State, is there?

A. None whatever.

BY MR. BACON: Q. Except by special laws you have been granted some special powers?

A. By some laws; yes, sir.

BY MR. GOODRICH: Q. You understand the organization in your town is the same as in the other towns of the State?

A. Yes, sir.

MR. GREENE: Except in exceptional cases.

BY MR. GOODRICH: In 1883 how many policemen were in the employ of the Police Board?

A. About 17.

Q. Were the 17 men appointed and holding office and doing service during the whole year?

A. No, sir; about three months of the year, or about 120 days.

Q. What are the 120 days?

A. Beginning the first day of June and ending the first day of October.

Q. That is during the summer season and pleasure season of the year?

A. Yes, sir.

Q. During other parts of the year how many men were appointed ?

A. None.

Q. Then you were without the police during the winter months ?

A. For want of money; yes, sir.

Q. Was that true in 1884, 1885 and 1886, or did the number increase.

A. In 1886 they stayed about 17 and 18—until 1886. That was last year. It was necessary to have two or three more and we appointed last year 22.

Q. Do these numbers, 17 or 22, comprise the whole Police Force of the Town of Gravesend and appointed by the Police Commissioners ?

A. Yes, sir.

Q. Were there not special deputies appointed by the Police Commissioners ?

A. Yes, sir; plenty of them.

Q. Or special officers ?

A. Yes, sir.

Q. How many were thus appointed in 1883 ?

A. I couldn't tell you that. I have the record here.

Q. Please to produce it ?

A. Mr. Stryker has the record there.

(Book of minutes of the Police Board is produced and examined by the witness.)

A. This is the minutes of our proceeding in the Police Board. I can leave this with the Committee and they can look it up themselves. It would take me an hour to go over it.

Q. Can Mr. Stryker help you ?

A. Mr. Stryker will be better versed in this because he is the Clerk of the Board.

Q. You may call him to your assistance if you cannot give me the answers without circumlocution. What I want to know, generally, is, how many sworn officers under the supervision of the Police Board there were in 1883, of any kind or description ?

A. I suppose about seventy-five.

Q. In 1884?

A. They run from seventy-five to a hundred.

Q. In 1885?

A. About the same.

Q. And in 1886?

A. About the same.

Q. During what portion of the year do these extra officers hold positions?

A. During the summer season.

Q. During the whole summer season?

A. Yes, sir.

Q. What do you call those extra officers?

A. They were special men appointed for Mr. Culver's Railroad, The Sea Beach Railroad, Gunther's Railroad, the Iron Pier, and different places where they have jobs.

Q. What do you mean by different places?

A. If the hotel wanted a man and he made his application, we appointed him, the same as a Sheriff would.

Q. Were any appointed for the race tracks?

A. No, sir.

Q. Did you have the appointment of any man who served as special deputy police officers or constables or performed any police service on the race tracks?

A. I had nothing to do with it whatever.

Q. Did not the Board appoint men for that purpose?

A. No, sir. There is our record right there.

Q. Who did appoint the men?

A. We appointed the men. I will explain about that. A man whom we knew would come into the Board, who was living in the town, and would make an application in writing to be appointed a special policeman. He said that if he should be appointed he could get something to do, and in any such case where we knew the man to be sober honest and industrious, we appointed him, and he looked out for his own work thereafter.

Q. How many such men did you appoint it 1883?

A. Probably fifty or sixty right along every year.

Q. Fifty in each year?

A. About that.

Q. Don't you know where those men obtained service and pay?

A. I guess some of them were in the hotels, and probably some of them on the tracks.

Q. Don't you know the fact that many of them were on the race tracks?

A. I guess some of them were.

Q. Don't you know they were?

A. I guess they were. Yes, sir; they were on the race tracks.

Q. I want to know how many were on the Brighton Beach track?

A. I don't know.

Q. Or on any of the three tracks?

A. I don't know.

Q. Who paid these men that went to the various private services?

A. The different people who employed them.

Q. In other words, the Coney Island Jockey Club would employ men who were used on that track, and on the other race courses the same?

A. The men were employed on the Coney Island track, and Brooklyn track were employed by Mr. Pinkerton, who had charge of those tracks.

Q. Was Mr. Pinkerton employed on all three tracks?

A. I know that he was employed by those two.

Q. By the Sheepshead Bay track and the Brighton Beach track?

A. Yes, sir.

Q. And he employed the men, or had supervision of the men employed on those two tracks, as you understand it?

A. Yes, sir.

Q. Who gave Pinkerton authority?

A. The people owning the tracks hired him; I had nothing to do with it.

Q. You had nothing to do with detailing Mr. Pinkerton for services in the places?

A. Nothing whatever.

Q. What is the warrant for Mr. Pinkerton to act as police officer in the town of Gravesend?

A. I can't answer that.

Q. Did you know the fact that he was thus employed during these years ?

A. I did.

Q. Did you consider it any part of your duty as the Chief of the Board of Police, to inquire by what authority he was exercising police functions in that town ?

A. I did not. I took it for granted that he had the right to go into different States anywhere. I believe he has that right. That was the way I understand it.

Q. Would you allow any person to come in and exercise the functions of a police officer in your district without inquiring as to his power and or authority ?

A. Not if he was doing wrong.

Q. Would you anyway ?

A. I don't think I would, no, sir.

Q. Why in the case of Mr. Pinkerton did you permit it?

A. Mr. Pinkerton was employed by that corporation.

Q. How did you know that ?

A. He was there ; that is all I know.

Q. You made no inquiries as to the authority by which Mr. Pinkerton was there acting as a police officer ?

A. I did not ; he was employed by those people in an enclosure, and I suppose he had the right to go there if they wanted him.

Q. And you knew at the same time that he was appointing and employing men under his supervision upon those two tracks, did you not ?

A. Yes, sir.

Q. And that those men exercised police officer's authority upon the tracks ?

A. They did.

Q. And you knew that fact ?

A. Well, I didn't know it of my own personal knowledge, only the rumor.

Q. You caused the oath to be administered to them as special policemen ?

A. To those tracks ?

Q. Yes.

A. We didn't appoint anybody for those tracks.

Q. You administered the oath as special officers to the men who were subsequently employed on those tracks ?

A. I will explain that, if you will allow me.

Q. Go ahead ?

A. I thought I did. If a man comes to our office, and makes application to the Police Commissioners to be appointed a special officer for the town of Gravesend, the man, if he is qualified in every particular, is appointed by the Board. We do not have anything to do with them thereafter, unless there is some complaint against them ; and then, of course, he is dispossessed of his authority. We don't follow him, or anything of that kind.

Q. Was it in this way that the Pinkerton men were deputized ?

A. Yes, sir.

Q. How do you know that these men were of good character ?

A. Well, I am pretty well acquainted in the town. I know pretty much all of them.

Q. Were they all residents of Gravesend ?

A. No, sir ; not all of them. Some of them were from Brooklyn.

Q. What did you know about the men that came from Brooklyn ?

A. They were well recommended.

Q. Recommended by whom ?

A. By friends of mine. Not in politics.

Q. How did you know they were men for Pinkerton ?

A. I didn't know that. I said Mr. Pinkerton employed his own men, and that we appointed those as special policemen, and they could get a job where they pleased.

Q. Didn't you recommend men to Pinkerton ?

A. I did not.

Q. Never ?

A. Not for the track ; no, sir.

Q. For any place ?

A. Yes, sir ; I have sent several men to Mr. Pinkerton, to New York, to get a job.

Q. Have you not sent men to him to get a job at Coney Island ?

A. No, sir.

Q. Are you quite positive about that ?

A. I am positive about that. That is, to Coney Island or for the tracks. I was always cautious on that part of it.

Q. Yet it is true that you appointed men as policemen and caused them to be sworn in, while at the same time you had no supervision over them ?

A. Yes, sir ; we could call in a deputy at any time for assistance, if we wanted him.

Q. But when you call in a deputy he is under your supervision ?

A. He would be for the time that he was there. That was their agreement.

Q. Who paid these men employed by Pinkerton or by the race tracks ?

A. I couldn't tell you.

Q. You did not pay them ?

A. No, sir.

Q. They were not made a town charge ?

A. No, sir.

Q. Don't you know or believe that they were paid by the race track or courses ?

A. I suppose they were ; yes, sir.

Q. How many times in the year 1883 were you on the Coney Island Race Track ?

A. I was on the Coney Island Race Track I guess pretty much every day while they were building there. That is, on the ground ; not on the track.

Q. Were the buildings built in 1883 ?

A. I think not ; I don't think they were.

Q. I asked you in the year 1883 ?

A. I don't know, as I was on the race track until I commenced to build there ; that was in 1884, I think.

Q. Were the Coney Island buildings put up in 1884 ?

A. There were some ; yes, sir.

Q. You think the Coney Island buildings were put up in 1884 ?

A. There were some buildings probably put up before that.

Q. You administered the oath as special officers to the men who were subsequently employed on those tracks?

A. I will explain that, if you will allow me.

Q. Go ahead?

A. I thought I did. If a man comes to our office, and makes application to the Police Commissioners to be appointed a special officer for the town of Gravesend, the man, if he is qualified in every particular, is appointed by the Board. We do not have anything to do with them thereafter, unless there is some complaint against them; and then, of course, he is dispossessed of his authority. We don't follow him, or anything of that kind.

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A. By friends of mine. Not in politics.

Q. How did you know they were men for Pinkerton?

A. I didn't know that. I said Mr. Pinkerton employed his own men, and that we appointed those as special policemen, and they could get a job where they pleased.

Q. Didn't you recommend men to Pinkerton?

A. I did not.

Q. Never?

A. Not for the track; no, sir.

Q. For any place?

A. Yes, sir; I have sent several men to Mr. Pinkerton, to New York, to get a job.

Q. Have you not sent men to him to get a job at Coney Island?

A. No, sir.

Q. Are you quite positive about that ?

A. I am positive about that. That is, to Coney Island or for the tracks. I was always cautious on that part of it.

Q. Yet it is true that you appointed men as policemen and caused them to be sworn in, while at the same time you had no supervision over them ?

A. Yes, sir ; we could call in a deputy at any time for assistance, if we wanted him.

Q. But when you call in a deputy he is under your supervision ?

A. He would be for the time that he was there. That was their agreement.

Q. Who paid these men employed by Pinkerton or by the race tracks ?

A. I couldn't tell you.

Q. You did not pay them ?

A. No, sir.

Q. They were not made a town charge ?

A. No, sir.

Q. Don't you know or believe that they were paid by the race track or courses ?

A. I suppose they were ; yes, sir.

Q. How many times in the year 1883 were you on the Coney Island Race Track ?

A. I was on the Coney Island Race Track I guess pretty much every day while they were building there. That is, on the ground ; not on the track.

Q. Were the buildings built in 1883 ?

A. I think not ; I don't think they were.

Q. I asked you in the year 1883 ?

A. I don't know, as I was on the race track until I commenced to build there ; that was in 1884, I think.

Q. Were the Coney Island buildings put up in 1884 ?

A. There were some ; yes, sir.

Q. You think the Coney Island buildings were put up in 1884 ?

A. There were some buildings probably put up before that.

Q. Who was the contractor for putting up those buildings?

A. I don't know who it was put them up. The first buildings I didn't know anything about.

Q. You contracted for some of the buildings?

A. I did ; for several.

Q. What year was that ?

A. I think that was in 1884 and 1885.

Q. I ought to ask you here, your business is that of a carpenter and builder, is it not?

A. Yes, sir.

Q. What buildings did you put up in 1884?

A. I think there were some stables that were put up in 1884.

Q. What was the amount of that contract?

A. About twenty-two hundred dollars for the stable; \$2250.

Q. Is that the only contract you had with the Coney Island Jockey Club in 1884?

A. I couldn't tell you positively, without my books.

Q. What buildings did you put up in 1885 on the Coney Island course?

A. Is it necessary for me to answer all those questions of my private affairs?

Q. I think it is, Mr. McKane?

A. Well, I have no objections.

Q. I have a definite object in view, and I am not inquiring into your private business for any private object?

A. Well, I don't know that I care how much you pry in.

Q. Then kindly answer my question. (The question was then read by the stenographer as follows:) What buildings did you put up in 1885 on the Coney Island course?

A. I think we put up a large shed, 100 by 200; a dining-room and restaurant, and some other jobs around there.

Q. Can you state the amount of the contract generally of that year?

A. I think that year probably about twenty to twenty-five thousand dollars.

Q. Did you put up any buildings for that association, the Coney Island Jockey Club, after that?

A. I am doing all their work; yes, sir.

Q. Ever since you commenced how much have your contracts with them for buildings amounted to?

A. Probably altogether forty or forty-five thousand dollars.

Q. During those years, when did the racing commence on the Coney Island Jockey Club course?

A. In June some time.

Q. June, what year?

A. I don't remember exactly.

Q. June, 1883?

A. It might probably have been.

Q. Was it the year before you did your first work?

A. Oh, yes, sir.

Q. Had there been racing on that track before 1883?

A. I am not positive of the year they started there, but it was the year before that that I started in to do the work.

Q. You have been doing the work, as I understand it, on those tracks during the years 1884, 1885 and 1886?

A. Yes, sir.

Q. You did not do any in 1883?

A. No, sir.

Q. In 1884, 1885 and 1886?

A. Yes, sir; I did.

Q. And did you do work during the time racing was going on?

A. No, sir; always had to be completed before that.

Q. During the time racing was going on at Sheepshead course were you there daily?

A. No, sir.

Q. How many times were you there in the season of 1883?

A. I don't know as I was there at all.

Q. Will you swear you were not there?

A. I wouldn't swear positively, no sir, because I am not positive.

Q. Were you there in 1884, during the racing?

A. In 1884 and 1885 and 1886, I was there I guess.

Q. I have been confining my attention to the Sheeps-

head course, known as the Coney Island Jockey Club. In 1884, were you at Sheepshead Bay racing course while the racing was going on?

A. I was there I think two or three times on business, yes, sir.

Q. And during 1885?

A. In 1885, yes, sir.

Q. How was it during 1886. Were you there while racing was going on?

A. Yes, sir.

Q. How many days in 1886?

A. Not over one or two. I think it was twice, yes, sir.

Q. Did you not know that pool selling and book making were going on during these years, or some of them, at the Sheepshead course?

A. Those two years; yes, sir.

Q. And you were a police officer, were you not, with police powers?

A. Yes, sir.

Q. Will you explain why you did not arrest the men engaged in gambling, pool selling and book-making?

A. They were arrested.

Q. All of them?

A. All that we could get.

Q. Did you seize the paraphernalia of these gamblers?

A. Yes, sir.

Q. In every case?

A. In those two cases that I was there; yes, sir.

Q. Did you only arrest in two cases?

A. Those two years; yes, sir. Probably it might have been two or three. I mean on the Coney Island Jockey Club Track.

Q. Yes, sir. I am talking about that. Who was the first person you arrested on the Sheepshead Bay course?

A. I forget his name. It was one of Johnson's men.

Q. Was he afterwards indicted?

A. I don't know; I don't remember. That is a matter of record; I can't tell.

Q. You say you don't know whether he was indicted or not?

A. I done my part of it. I had the man arrested and taken before the Justice of the Peace.

Q. What Justice of the Peace?

A. I thing it was Judge Waring.

Q. Were you there when he was arraigned?

A. I was there, and appeared against him, yes, sir.

Q. What became of the case?

A. I don't know.

Q. What is the name of the man?

A. I haven't got his name now; I can get his name.

Q. You arrested one person during that year?

A. I might have arrested more.

Q. You might have arrested more. Do you remember arresting any other person for gambling at Sheepshead Bay during that year?

A. I don't know that I did.

Q. Why did you arrest that particular man?

A. The complaint came to me that they were selling pools, and I went there as an official, to stop it.

Q. Who gave the information to you?

A. I was notified by the officer, one of the officers, who was an officer that I had sent over for that purpose; and my attention was called to it by the District Attorney.

Q. Mr. Ridgway?

A. Yes, sir.

Q. You went over and arrested him personally, did you?

A. Yes, sir.

Q. What was he is doing when you arrested him?

A. They were doing nothing. As soon as they saw me, whatever they had been doing was done. I got some papers which I guess is on file in the District Attorney's office, and I brought them along with the man.

Q. Can't you give me the name of that man by some reference?

A. I can't now; but I will give it to you. The District Attorney has got the records.

Q. What was that man doing, or what was he charged with doing, that caused you to arrest him?

A. They were calling out the name of a horse that was running,

Q. Was that pool selling ?

A. That is bookmaking, I believe they call it.

Q. That was in 1884 or 1885 ?

A. In 1885 and 1886.

Q. I am talking about this man—the first man you arrested ?

A. That was in 1885.

Q. He was bookmaking ?

A. Yes, sir.

Q. In bookmaking they have tickets—printed blanks or tickets ?

A. Yes, sir.

Q. Did you seize any tickets when you arrested those men ?

A. I had a ticket and a large card with the names of the horses on it.

Q. Did you cause that card to be seized ?

A. Yes, sir.

Q. Do you know whether that man was afterwards convicted or not ?

A. In 1885.

Q. You are still talking about the first man you caused to be arrested ?

A. In 1885 ; yes, sir.

Q. You don't know whether he was convicted or not ?

A. No, sir.

Q. You don't know whether he was indicted or not ?

A. No, sir.

Q. You don't know whether he was held for the Grand Jury, or not ?

A. I think he was held for the Grand Jury, but I am not positive.

Q. That is the only man whom you caused to be arrested in 1885 ?

A. That is the only complaint I had.

Q. Is that the only man you caused to be arrested in 1885 for gambling of any description, at Sheepshead Bay ?

A. I think it was ; yes, sir.

Q. Did you cause the arrest, or arrest any other person, at the courses, or anywhere else on Coney Island, during the year 1885?

A. Yes, sir; they were arrested at Brighton on several occasions. We arrested four or five men, I think, at Brighton in 1885.

Q. Do you know the names of any of them?

A. I do not.

Q. Did the number exceed four or five?

A. Well, it might; yes, sir. I couldn't carry a record of that kind in my head. We have so much of that kind of business to do.

Q. Have you any papers that will enable you to say about other persons you arrested in 1885?

A. I haven't got it here.

Q. Will you send for it?

A. I can't get it to-day.

Q. I should like to have you with it on Monday morning?

A. Yes, sir.

Q. Do you remember how many persons you arrested on either of the race tracks for gambling in 1886?

A. I was down there on two or three occasions, making arrests.

Q. In 1886 you speak of?

A. In 1886 I speak of?

Q. On which course?

A. On the Brighton.

Q. How many persons did you arrest there?

A. Well, we arrested at different times; I think there were two or three.

Q. Do you know the names of any of them?

A. No, I haven't got the record here.

Q. How did you come to arrest them?

A. There was a complaint came to me that they were selling pools down there, and I went down there, and of course when they saw me they scampered, but I stayed around there a while, and finally caught two or three of those people making bets. They were betting. I didn't see any papers, only three or four in particular that had

little cards or pieces of paper, and they were noting down with a pencil. I took those people away.

Q. How many do you think in all of that year you arrested on Coney Island for gambling?

A. I suppose there was not over five or six altogether.

Q. Was there as many as five or six?

A. I couldn't swear positively to that.

Q. About how many did you arrest in 1886?

A. Not over two or three.

Q. What steps did you take to bring them to conviction?

A. They were brought before the Justice and sent to the District Attorney and were tried.

Q. Do you know the names of any of the persons you have arrested at any of the times during these two or three years?

A. I do not. I make the complaint as against John Doe or Richard Roe. I don't know these people; and the people that are arrested are handed to the Justice of the Peace. After they are handed to the Justice of the Peace my duty ceases.

Q. In 1883 did you appoint any men on the race track to guard it?

A. Not that I remember; no, sir, never appointed any on the track.

Q. Did you detail any men to go to the track for police purposes?

A. All these men were special men, as I stated before.

Q. Did you ever buy a pool ticket on any of the places?

A. On two occasions.

Q. While you were a police officer and president of the Board of Police?

A. Yes, sir.

Q. And while you were the head of these several Boards of which I have spoken?

A. Yes, sir.

Q. How many times have bought pool tickets?

A. Twice in my life.

Q. What year was that?

A. In 1886, the last one, and in 1883.

Q. Were you arrested for purchasing that pool ticket?

A. Yes, sir.

Q. You were arrested for that reason?

A. I don't know as I was arrested for that pool ticket.

Q. Were you arrested after you had bought that pool ticket?

A. No, sir.

Q. Were you arrested before you bought it?

A. No, sir.

Q. It must have been before or after?

A. It must have been after.

Q. You were arrested after you bought the pool ticket?

A. Yes, sir.

Q. On the 24th September were you and two of your policemen arrested for aiding and abetting gambling on that track?

A. Yes, sir.

Q. And on the 25th were there five others of your policemen arrested for that reason?

A. None of my policemen, no sir. Several of those special officers.

Q. Persons whom you had sworn in as policemen?

A. Yes, sir.

Q. And on the 28th was another one arrested for the same reason?

A. I don't remember that. I haven't got the details.

Q. Do you know James F. Quigley?

A. Yes, sir.

Q. He was one of the special officers sworn in by you?

A. Special, same as the others.

Q. Wasn't he arrested on the 28th of September, 1883, for running a faro game on the track there?

A. I never knew they run a faro game on the track.

Q. Wasn't he arrested for that reason?

A. Not on the track.

Q. What was he arrested for?

A. I don't remember. I think probably it was faro game in his house.

Q. Where is his house?

A. Opposite the track.

Q. Is that the house kept by Jane A. Madigan?

A. Yes, sir. Will you allow me to explain, for fear I shall forget it, why those tickets were bought.

Q. I will give you that opportunity in a minute. I will come back to it. I want to know what information you had during 1882 and 1883 that gambling was going on at the race tracks on Coney Island?

A. My attention was called to it by Mr. Comstock at one time.

Q. What year first?

A. I am not positive as to the year. I think in 1884 or 1885.

Q. What information did you have before that that gambling was going on there?

A. Well, the newspapers were talking about pool selling. That is all I know of it.

Q. What steps did you take to break it up in all the years you have been Police Commissioner?

A. On any complaint that was brought before me, I always attended to it and made the arrests. Went down there. That is, I went down if I could make the arrest, if they were there.

Q. Is that all you have done?

A. That is all that I think that I have done, when a complaint was made.

Q. Did you ever send policemen or detectives to make inquiries to see whether gambling was carried on at those places?

A. I have done that often.

Q. Who have you sent for that purpose?

A. We have in the summer time special officers or special detectives; some from the city of New York and some from Brooklyn.

Q. It was a matter of public notoriety in all the past five years that gambling has been publicly conducted at the Coney Island Race Course. Is that true?

A. Pool selling; yes, sir.

Q. And yet do you mean to say that you as the head of the Police Department of Gravesend were unable to arrest men in the act of gambling.

A. I say I made arrests every time there was any complaint made about it.

Q. You say that you made arrests when complaints were made to you?

A. Yes, sir.

Q. Did you consider you discharged your full duty to the public by sitting still and waiting for complaints to be made to you by other parties when it was a matter open and notorious that gambling was publicly conducted on these race tracks?

A. I didn't know that of my own personal knowledge.

Q. You say you were informed by the newspapers of that fact?

A. They are not always correct.

Q. Well, that is a settlement you will have to make with the gentlemen of the press.

A. Well, I believe that is shown in the Assembly; they are not always correct in their report.

Q. Do you consider gambling a crime?

A. I do.

Q. A crime of great magnitude?

MR. GREENE. Oh, do not speculate on that.

A. Well, I am not well versed in gambling; I cannot say as to the magnitude.

BY MR. GOODRICH: Q. It would be your clear duty as the head of the Police Department to secure the arrest of public offenders of that character?

A. I claim to act on the complaint of any citizen; I claim that is my duty as the Chief of Police. When any complaint is made by anybody of the town or county it is my duty to see to it that the matter is stopped if there is any crime going on.

Q. Do you consider your duty ends with that?

A. I don't think it is my duty to stand on that race track or in gambling houses to find out if they do it.

Q. Don't you think it is your duty to send officers for that purpose?

A. If there is a complaint or if I know it.

Q. If you are informed of it?

A. If I am informed of it I say I have always done so.

Q. Would it make any difference whether you are informed by the newspapers or by private individuals?

A. It would make considerable.

Q. You said you wanted to make some explanation about the pool tickets?

A. Yes, sir. In 1883, about the 12th or 13th of September I think it was, there was quite a row about pool selling; and to satisfy myself that such was the case and in case it should come up I went and bought a pool ticket. That was in 1883. That was the evidence and that evidence was used before the Justices of the Peace. In 1886, I bought another pool ticket on Brighton Beach. That was also used for evidence and was used in the Kings County Court for evidence.

Q. In what case?

A. In the Engeman cases I think it was that was tried.

Q. Is that all you want to explain?

A. That is the only tickets I bought.

BY MR. GREENE: Q. Were these police officers of the Police Force of the City of Brooklyn?

A. No, sir.

Q. Or any of the police that was used, any part of the Police Force of the City of Brooklyn?

A. No, sir.

Q. Gravesend is not within the City of Brooklyn?

A. No, sir.

Q. But it is in the County of Kings?

A. Yes, sir.

BY MR. GOODRICH: Q. What other contracts did you have with the Brighton Beach Association for building its houses?

A. I never done much work for the Brighton.

Q. Altogether how much?

A. Probably \$7,000 in 1882 or 1883.

Q. How much with the Brooklyn Jockey Club?

A. About \$90,000 or \$80,000 worth.

Q. That was done in what year?

A. Some of it done last year and some of it done this year.

Q. Did you receive any of these contracts on competition or an offer to build?

A. I had to figure on every job I have got for their work.

Q. Was it a competition bid or simply an offer to build ?

A. A competition bid.

Q. Who competed with you ?

A. I don't know.

Q. Do you know it was a competing bid ?

A. I don't know. I was told so by the people who asked me to bid.

Q. You don't know of any other person who has competed for either of those bids ?

A. I don't know that in any of the bids I put in to put up a building. They don't tell me that.

Q. I understand the great hotels there and the other enterprises are all manned by their constabulary force ?

A. Not all of them.

Q. Well, chiefly ?

A. We appoint all those special officers and they pay for their own.

Q. They pay for them ?

A. The hotels ; yes, sir.

Q. And the railroads the same ?

A. Yes, sir.

Q. And all of the great enterprises there have their own policemen and pay for them, do they not ?

A. They have their own policemen around their hotels and depots, but the general police is appointed by the Police Commissioners.

Q. Don't you know as a fact that many of these persons whom you have sworn in as policemen are occupying sine-cure positions in the race tracks ?

A. I do not.

Q. That you don't know anything about ?

A. No, sir.

Q. After you swear them in you pay no further attention to them ?

A. Unless there is a complaint.

Q. Who grants the licenses for keeping hotels ?

A. The Excise Commissioners.

Q. The Excise Commissioners of what place ?

A. The Town of Gravesend.

Q. Who are the Excise Commissioners ?

A. Mr. Bader, Mr. Taylor and Mr. Lundy.

Q. Do you act *ex officio* as a member of that Board ?

A. No, sir, I have not the honor.

Q. Who grants licenses for running hotels, not bar-rooms ?

A. The Excise Commissioners.

Q. Who grants licenses for hacks and public conveyances ?

A. The Police Commissioners.

Q. Who appoints the Excise Commissioners ?

A. The people of the town elect them.

Q. At the town meeting ?

A. Yes, sir.

BY MR. GREENE : Q. Is there local option there in that town ?

A. Yes, sir, it is.

BY MR. GOODRICH : Q. Mr. McKane, you reside at Gravesend the year round, do you not ?

A. Yes, sir.

Q. During the summer season is it true that the places of public resort, places of amusement and drinking places are open and running on Sundays as they are on week days ?

A. Drinking and what else ?

Q. Public amusement ?

A. Some of them are.

Q. What kind of places do you close on the Sabbath ?

A. Well, we have tried to break up this Sunday dancing and have accomplished that to a certain extent ; but our own trouble is with the necessary Police Force to do so. As I told you, we have only a certain number of men to string along the shore of five miles long, and it is impossible for us to watch things as we should do. Of course, if we had the necessary help we could do a great deal better for Coney Island.

Q. Do you mean to say that public dancing goes on along five miles of that shore ?

A. I don't.

Q. Then why do you use the term five miles of the shore?

A. Because Coney Island is five miles long there.

Q. You do not mean to say that public halls are open the whole length of that beach, or ever were?

A. I mean to say we have our location, to put our policemen along the line of that shore.

Q. Did you not say the constabulary force of the great hotels was paid for by themselves?

A. Not out of those places.

Q. Has not the Manhattan Hotel the same police?

A. From Coney Island Bay to Brighton is about three or three and a half miles long.

Q. Over that do you exercise police supervision by putting your men there?

A. Yes, sir; and half a mile wide.

Q. How many men do you have east of the concourse, or east of Ocean Park Boulevard, where the hotels lie?

A. Four, generally.

Q. The other thirteen are down by the West End?

A. No, sir; we have a place called Sheepshead Bay; we have to put police in there; four go there. That is eight out of the seventeen.

Q. Is it true that as a general statement the public amusements and drinking and bar-rooms are open and running Sunday to a greater extent than they are on week days?

A. No, sir; not a greater extent.

Q. To an equal extent?

A. They are about the same.

Q. So that no distinction is made in the observance of the Sabbath at all?

A. No distinction; no, sir.

Q. Do you feel yourself, as the head of the Police Department, authorized to close those saloons and public amusements on the Sabbath day?

A. Well, while I do not frequent those places, I do not think it is my duty altogether to stop any people enjoying themselves that come down there in the summer season. It is not like a place that is run all the year round, I don't

think. We may not be as particular of Sunday as we would otherwise.

Q. Do you consider it within your duty, as the head of police, to stop places where dancing is going on?

A. I told you we had done that.

Q. Have you stopped it?

A. Yes, sir; we stopped it last summer.

Q. Entirely?

A. Well, we stopped it as good as we could, with the force we had.

Q. Did you stop it entirely?

A. We did for awhile. I believe they started in again during the latter part of the season.

Q. It continued?

A. Well, we would stop it every once in a while. When we would get any complaint about it we would stop it.

Q. Did you only stop it when when you got a complaint?

A. I mean from the police officers, when they would report it. When the police officers would report it we would stop it.

Q. Was it the duty of the police officers to report it?

A. It was; and they did.

Q. Was it any more the duty of the police officers to report that than to report on the subject of gambling?

A. Every subject of gambling that came under our regular police was reported.

Q. How many gambling saloons are there on Coney Island in running operation?

A. None that I know of.

Q. Do you know a place named Garrett Caten's or on Garrett Caten's property run by a man named Fitzgerald?

A. I don't know Fitzgerald. I know a man named Garry Caten.

Q. Do you know what his property is?

A. Yes, sir.

Q. Is there a place there, a gambling saloon, notoriously run during the summer by a man named Fitzgerald?

A. It was so reported and we notified Mr. Caten that it must be stopped.

Q. Did you arrest any person in connection with that house?

A. No, sir.

Q. Was the house pointed out to you?

A. No, sir.

Q. How did you know it was Garrett Caten's?

A. I know him. I have done his building. I know where he lives.

Q. Did you suppose Garrett Caten could have told you the house that was used for gambling?

A. I suppose he could.

Q. Did you make inquiries of him what house it was?

A. Of Garry?

Q. Of anybody?

A. No, sir.

Q. Yet you were informed that gambling was being conducted in the place owned by Garrett Caten?

A. Yes, sir; and they were stopped.

Q. When?

A. Last year.

Q. What time?

A. Long about the latter part of the season.

Q. Did it open again and continue?

A. I think not. That was the only complaint we had of it.

Q. Was that house running during all the season?

A. That I don't know.

Q. Do you know another pool room known as the Arlington pool room, within sixty yards of the Police Headquarters?

A. No, sir.

Q. Did you ever know any such place?

A. No, not a pool room.

Q. Do you know of any such place as the Arlington pool room?

A. I know the Arlington Hotel, yes, sir.

Q. How far is that from Police Headquarters?

A. About sixty yards.

Q. Do you know that gambling has been carried on there notoriously?

A. No, sir.

Q. Do you know it has been carried on there?

A. No, sir, I do not.

Q. You never heard of it?

A. No, sir.

Q. Now, going back to these places of public amusement a moment; are they licensed?

A. No, sir.

Q. Don't they require any license from the Commissioners?

A. Only the excise license.

Q. That is all?

A. Yes, sir, unless it is a museum. We have licenses for museums and carrouseles.

Q. Are there, to your knowledge, houses of prostitution at Coney Island?

A. They have been reported, and we have tried to break up all that we could.

Q. Do you know a place known as Redlight?

A. Yes, sir, and we have arrested those people time and time again.

Q. Well, when did you arrest them last?

A. Well, I think it was year before last.

Q. Was it running last year?

A. Not that I know of.

Q. Don't you know the Redlight was running all through last season.

A. No, sir.

Q. How near is that to Police Headquarters?

A. I suppose about one-fourth of a mile.

Q. Is it not within one-eighth of a mile?

A. Well, I hardly know. Between one-eighth and one-quarter, it may be.

Q. Do you know Laura's Cottage—that used to be kept by Big Laura?

A. I used to know such a place.

Q. Is that a house of prostitution?

A. It was so reported, and we broke it up.

Q. When?

A. Last year.

Q. What time ?

A. No ; it was the year before last.

Q. Was it running last year again ?

A. Not that I know of.

Q. Did you make any inquiries about it last year ?

A. I say I only make inquiries on complaints. I didn't think it was my duty to be a detective and also the Governor of Police. I don't go around to look, but if complaint is made we send the officers out and investigate.

Q. Do you give any instructions to your officers to break up the gambling houses and houses of prostitution ?

A. Yes, sir ; they take that oath when they are sworn in.

Q. Then is it not their duty to make these inquiries ?

A. Yes, sir.

Q. Do you take the same oath, as Chief of the Board ?

A. I am not appointed ; I only hold *ex-officio*.

Q. Is that a part of your duty, to break up gambling houses and houses of prostitution ?

A. Yes, sir.

Q. Now I ask you what steps you have taken to break that up ?

A. By notifying the police if we heard anything—any report to headquarters.

Q. Are not these notorious places well known at Coney Island—the two I have named, the Redlight and Laura's Cottage ?

A. They were notoriously known until they were broken up.

Q. What time do you say Laura's Cottage was broken up ?

A. Year before last.

Q. Was it not in notorious operation last year ?

A. Not that I know of.

Q. Did you make any inquiries about it ?

A. I say, I do not make any inquiries.

Q. Do you know Nana's Ocean Cottage ?

A. Yes, sir ; we have made arrests there too.

Q. When ?

A. When the police officers or the public make a complaint, or any citizen.

Q. Do you know Vaga's Eagle Roadhouse, on the Ocean Parkway?

A. No, sir.

Q. Do you know Mrs. Cook's place, north of Vanderveer's?

A. I do not.

Q. Do you know Jane Madigan's place on the Boulevard?

A. Yes, sir.

Q. Is that a house of prostitution?

A. No, sir.

Q. Or a bed-house?

A. No, sir.

Q. That is a respectable place?

A. Yes, so far as I know.

Q. You never have been informed of anything to the contrary?

A. Only as I have been informed by complaints about the faro game; that was broken up.

Q. Are not all these houses of prostitution that I have named, except Nana's, open all the year round?

A. I think I have answered that as well as I can. I say I don't know anything about them; that I have never been into them.

Q. Don't you know these houses are open for some kind of business the year round?

A. I do not. I will explain why. I am only on Coney Island during the summer season; and my residence is at Sheepshead Bay. I can tell you all that goes on at Sheepshead Bay in the winter and what is going on at Coney Island in the summer.

Q. Well, I am trying to find out what goes on at Coney Island in the summer?

A. I will tell you all I know.

Q. You say you broke up one of these houses and had the parties indicted?

A. From Nana's Cottage, I think, there were two or three sent to the Penitentiary.

Q. Who made the complaint as regards Nana's ?

A. I am not positive whether I did or one of the officers ; I can't tell. I make so many that I can't remember them all.

Q. Now, going back once more to these common lands ? Do you own any of these common lands ?

A. Yes, sir.

Q. When did you buy them—I only ask did you buy them while you were president of the various boards ?

A. Yes, sir.

Q. Were you ever one of the trustees of the common lands ?

A. I was one of the Commissioners of Common Lands.

Q. Who is authorized to sign the deeds of the common lands ?

A. The board of trustees ; five of them elected.

Q. Did you sign the deed of that property or any part of it that was conveyed to you ?

A. I don't remember. Possibly I did. I guess it was necessary to make it legal. That property was bid for the same as the rest.

Q. Was it conveyed directly by the commissioners to you in your name ?

A. No, sir. I think it was bought in the name of Stryker S. Williamson and then assigned to me.

Q. It was bought for you ?

A. It was bought for himself and assigned to me.

Q. Did you furnish the money ?

A. He furnished the money.

Q. Did you repay him ?

A. I did when I bought it.

Q. Was it not the fact that he bought it as your agent and for your benefit and on your request ?

A. It might have been. I guess it was ; yes, sir.

Q. Does not the act provide that no deed shall be given for any lands to be sold without the consent and approval of the supervisor or of the town ?

A. Yes, sir ; and the people also. Now I want to correct that. I am not positive about Mr. Williamson buying that piece of land. I think it was voted on directly at the town meeting in my own name.

Q. I so understood ?

A. I think it is. This is another piece of land I had reference to ; not common lands. I think that was bought in my own name and voted for by the people of the town, same as the others.

Q. Were these lands exposed for public bidding—the lands which you purchased ?

A. Yes, sir.

Q. Who made the proposal ?

A. I must have done so myself, I guess.

Q. No ; I mean, who authorized the putting up of the land for the purpose of obtaining public bids ?

A. The Board of Trustees.

Q. That is the Commissioners of Lands ?

A. Well, they were Commissioners of Lands, but afterwards, by the Act, they were made trustees of the common land.

Q. When was that ; what year ?

A. 1884, I guess.

Q. Were the other proposals advertised in any of the papers.

A. Yes, sir.

Q. Which papers ?

A. The Brooklyn papers ; I don't know which ones. The Eagle or Union, I guess.

Q. Did they advertise for sealed bids or anything of that kind ?

A. I don't remember exactly what the trustees done. They advertised for bids for lots so and so, and all those lots were advertised together. I suppose I had the same right to bid as anybody else.

Q. Mr. McKane, I understood that your purchase was the result and completion of the vote of the town ?

A. Yes, sir.

Q. Then why was any bid necessary ?

A. The law governing those things that makes it necessary for people of the town to elect five trustees stated in just what manner that should be done, and the trustees carried that matter out just according to the law. That is a matter of record, and it can be found. I can't remember all the different directions in it.

Q. Mr. McKane, how long have you known Mr. Kelly as a gambler?

A. I don't know anything about Mr. Kelly.

Q. You saw Mr. Kelly on the stand ?

A. Yes, sir.

Q. Had you no personal acquaintance with him ?

A. None whatever. I have met him two or three times in my life.

Q. You know him by reputation as a gambler ?

A. As book-maker.

Q. When did you first know him ?

A. About two years ago, I guess.

Q. Where did you see him ?

A. I met him down at the track. I was introduced to him the day I was down on the track.

Q. Did you see him making books or book making ?

A. No, sir.

Q. Who introduced you to him ?

A. Some of the parties of the Racing Association there. It was while I was building there before they opened the race course.

Q. Didn't you see him there while betting was going on ?

A. I saw him around there the time I was there. I was only there on those occasions that I have sworn to.

Q. Who introduced you, how did you come to be introduced to him ?

A. I was introduced to Mr. Kelly by one of these gentlemen, I couldn't tell you which ; the same as any other persons.

Q. Anybody connected with the Sheepshead Bay Association ?

A. I am not sure about that. I think it was the superintendent.

Q. Mr. Engeman ?

A. No, sir. Of the Coney Island Jockey Club.

Q. Can you not refresh your recollection as to who made that introduction ?

A. I couldn't tell you. It was one of the gentlemen. The superintendent probably or probably one of the owners there. I can't remember.

Q. Do you remember what he said about him ?

A. He said, " Mr. Kelly, Mr. McKane, Mr. Kelly." That was all that was said.

Q. Did you know him then as a person engaged in gambling or book-making ?

A. I didn't know anything about him then.

Q. Hadn't you heard of him before that ?

A. Oh, yes, I had heard of Kelly, and Kelly & Bliss before.

Q. You knew it was the same person ?

A. Yes, sir, I knew it was that man. I was introduced to him as that man.

Q. From time to time after that you have seen him on the race track ?

A. I have not seen Mr. Kelly more than three or four times in my life.

Q. Where did you meet him after that ?

A. I guess that is the only place I met him unless in the Court House. I met him in the Court House on those trials; and I have seen him here to-day.

Q. He was indicted and convicted, was he not ?

A. He was not. He was arrested the same as the others.

Q. Have you any personal acquaintance with Mr. Bliss his partner ?

A. I wouldn't know him as I met him in the street.

Q. Do you know David Johnson who has been spoken of ?

A. I do not.

Q. You never met either Bliss or Johnson ?

A. Only from reputation, that is all.

Q. You have known the reputation of these men for years as gamblers, have you not ?

A. Well, as book-makers I do. I don't know anything about the gambling part.

Q. Don't you call book-making gambling ?

A. I guess it is.

Q. Have you any doubt about it ?

A. Well, it is a question that has not been decided. I don't know whether it is or not.

Q. You are called upon to exercise your judgment as to

what is or what is not gambling by reason of your position of Chief of the Board of Police?

A. I am the Chief of Police ; yes, sir.

Q. And that calls upon you for the exercise of your judgment in that regard?

A. I should consider it illegal ; yes, sir.

Q. Book-making is a system by which bets are registered?

A. I don't know anything about it, if you will allow me to tell that. I don't know anything about this business.

Q. You regard gambling or book-making from what you know of it as a species of gambling?

A. As a species of gambling ; I should say it was.

Q. When you purchased the ticket in September, 1883, from whom did you buy it?

A. It was bought on the Brighton Beach Race Course.

Q. From whom did you buy it—the public booth?

A. One of those public booths ; yes, sir.

Q. Were other people there buying at the same time?

A. Yes, sir.

Q. You may describe exactly what you did when you bought it and what was going on?

A. There was a complaint made about this betting business, and to satisfy myself—as I said before, I am a builder and I attend to my building business except for those two months in the summer. The complaints were made that there was pool-selling, and I went down to satisfy myself. I went down and bought this ticket as a proof that there was such things going on, and the arrests were made at the same time.

Q. Who did you arrest at that time ; how many did you arrest at that time?

A. Four or five

Q. Those are the arrests you spoke of before?

A. No, sir, those were in 1883. You asked me about Coney Island Jockey Club about 1883. You didn't say anything about Brighton.

Q. You bought a pool ticket at the Brighton and one at Sheepshead Bay?

A. I bought one at Brighton in 1883 and a pool ticket at

Sheepshead Bay. Yes, sir, one at Sheepshead bay and one at Brighton. That's right.

Q. Which one have you been speaking of in your examination?

A. The one at Coney Island Jockey Club.

Q. That is Sheepshead Bay?

A. Yes, sir.

Q. Did you arrest the persons from whom you purchased those pool tickets on both occasions?

A. Yes, sir.

Q. And took them before the Justice?

A. Yes, sir.

Q. Do you know whether they were indicted in both instances or were bound over to await the action of the Grand Jury?

A. In 1883 Judge Williams was Justice of the Peace; those people were taken before him and handed over to him, and of course my duty ceased as soon as I done that. I had nothing more to do with it. The record of the Court will show what was done.

Q. Were you not notified in 1884 by the District Attorney of this county that gambling was publicly and notoriously carried on at these race tracks?

A. I received a communication.

Q. Did you receive this letter from Mr. Ridgeway?

“OFFICE OF THE DISTRICT ATTORNEY,
BROOKLYN, April 22, 1884.

JOHN Y. MCKANE,

Chief of Police, Town of Gravesend.

DEAR SIR:

I desire to call your attention to the fact that it is a matter of public notoriety that gambling is openly carried on at various places at Coney Island in the Township over which you hold police supervision. It is hardly necessary for me to call your attention to the fact that gambling is prohibited by the laws of our state and to remind you of the obligation you owe to the people by virtue of your office, to enforce the laws. The particular place alluded to is one resorted to by

thousands of the people of our city to whom such exhibitions are objectionable.

The season is now about opening and active measures should be at once taken to make Coney Island free from all such practices as tend to make it repulsive to decent people.

Very respectfully yours,

JAMES W. RIDGWAY,

District Attorney."

A. I received such a communication ; yes, sir.

Q. What did you do in regard to that letter ?

A. I went down to examine for myself.

Q. Down where ?

A. To the Brighton Beach Racing Association, the one referred to there ; Coney Island.

Q. Was that the only race track then open at Coney Island ?

A. That is the only one that I know of.

Q. When was that track opened that year ?

A. Somewhere around Decoration Day, generally. The last of May.

Q. Between that time and the time of this letter what steps did you take to prevent gambling when the courses should be open.

A. In 1886 ?

Q. In 1884 ?

A. I don't know as I took any only what I have stated

Q. You had this notification from the District Attorney, and knew its importance ?

A. And attended to it ; yes, sir.

Q. What did you do in attending to it ?

A. I went down to stop them from selling pools.

Q. What day did you go down to stop them from selling pools ?

A. I don't remember the day.

Q. Did you go yourself ?

A. I am not positive whether I went myself or whether I sent officers.

Q. That was a communication from the prosecuting

officer of this county which was calculated to draw your attention to a great public crime, was it not?

A. Yes, sir.

Q. Now I ask what you did in response to that suggestion of the District Attorney and all that you did?

A. As I say, I went down and attended to it, and stopped them from selling pools.

Q. What did you do in attending to it and stopping them from selling pools?

A. Well, I sent officers down there.

Q. Did you go yourself?

A. I don't remember whether I did or not.

Q. Have you any knowledge of anything that was done to stop pool selling there?

A. In 1884?

Q. Under that letter?

A. Yes, sir.

Q. What, of your own knowledge?

A. Well, I say I attended to it; but just the date I don't remember. I suppose I attended to it right away.

Q. What did you do in attending to it?

A. Directed the officers to go down there and see if such was the case.

Q. Who did you send down there?

A. The Captain of Police, probably.

Q. Do you remember anything about it?

A. No, sir; I do not.

Q. Please do not testify except as to what you remember.

A. I can't tell. The Captain of Police might be out.

Q. Do you know anything that you are able to swear to which you did in obeying the suggestions of that letter from the District Attorney?

A. I don't know; I don't remember exactly? I can't tell.

Q. Did you stop pool-selling that year?

A. Yes, sir.

Q. Do you mean to say there was no pool-selling on the tracks at Coney Island during 1884?

A. I do not.

Q. How did you stop pool-selling ?

A. I stopped it at that time.

Q. How long did it continue stopped ?

A. I don't remember.

Q. Are you willing to say there was any day during the season of 1884 when pool-selling on the race-tracks at Coney Island was not conducted openly and notoriously ?

A. I do.

Q. What day ?

A. I can't tell you the day. I can say it was attended to ; when that communication was sent to me the matter was attended to and pool-selling stopped. I don't know for how long.

Q. Stopped while the racing was going on ?

A. Yes, sir.

Q. Yet you cannot specify a single day ?

A. No, sir ; I cannot now.

Q. You are not able to give any date on which there was no pool-selling on the race-tracks in 1884 ?

A. I can't swear positively. I am not going to swear to anything that I cannot swear to positively.

Q. That is what I am asking you ?

A. I am telling you I can't remember.

Q. Is it not a fact that pool-selling continued openly and notoriously during the whole season of 1884 while racing was going on at Brighton Beach and at Sheepshead Bay ?

A. The whole season ? Sheepshead Bay didn't run the whole season ? Only ten days.

Q. I mean the racing season ?

A. I don't doubt but what they sold pools there.

Q. Don't you know ?

A. I do not.

Q. Don't you know it to be a fact ?

A. No, sir.

Q. Don't you know it to be a fact that public rumor said and all the papers reported that pool selling was openly conducted on the race tracks at Sheepshead Bay and Brighton Beach every day during the racing season of 1884 ?

A. I will say that public rumor and the papers did say so ; yes, sir.

Q. And was that true of 1885?

A. Yes, sir.

Q. And of 1886?

A. With 1886, only those places where they were stopped at times, they were stopped.

Q. Do you mean to convey the impression, Mr. McKane, that you do not know, as a man may know without having personal knowledge of it, that racing combined with pool selling and book-making was openly and publicly conducted within your jurisdiction during every day of the racing season of 1883, 1884, 1885 and 1886?

A. Only through rumor and complaints that were made that were appended to it. That is all.

Q. I want you to summarize everything that in those four years you have done to stop it?

A. I have made arrests, as I have said before, during those years.

Q. How many?

A. I couldn't tell you now.

Q. Not over a dozen?

A. Probably a dozen.

Q. What else?

A. That is all I know of. I made arrests and sent them—the first was while Mr. Catlin was District Attorney in 1883; five or six were arrested, Engeman amongst them. And that is a matter of record in the court.

Q. Was there any difficulty in your arresting and stopping the gambling on each of those race tracks during each of those four years?

A. I suppose that possibly could have been done if it had been my duty to have stood on the track and watched them.

Q. Do you mean to say it was not your duty to stop a public crime while you were the head of the Police Department of that town?

A. If I knew that to be so on complaint it would be my duty I should say.

Q. You limit your duty to sitting in your office and awaiting complaints while the paper is ablaze with the fact that gambling is openly and notoriously conducted within your jurisdiction?

A. Well, I say I do not take the complaint of a paper as a police record. I couldn't very well do that. The papers might say I was a very bad man or a very good man; I don't suppose everybody would believe that. I claim this, if you will allow me to explain—

Q. Explain?

A. That my office as Chief of Police is an office that gives me no compensation whatever; I do not derive a dollar's worth of benefit from it in any way or shape; and I think if I devote a hundred and twenty days out of the year for nothing to help the town of Gravesend or the community at large that I am doing all that I ought to be asked for.

Q. All of that you knew when you accepted the nomination for the office of Supervisor?

A. No, sir; I did not.

Q. Did you not know when you accepted the office of Supervisor that it entailed upon you the duty of acting as Chief of the Board of Police?

A. I suppose it did; yes, sir.

Q. You knew that?

A. I was not as well acquainted with it then as I am now.

Q. You knew that all the time during the eight years that you have been re-elected from time to time?

A. Yes, sir.

Q. And you knew in accepting the position of Supervisor you bound yourself to take the duties upon you of Chief of Police?

A. Well, I took the duties; yes, sir.

Q. You knew that fact when you took the position of Supervisor?

A. Yes, sir.

Q. Why should you not then fulfill the duties that they entail upon you during the whole of your term?

A. I claim I did.

Q. What do you mean then, by pleading as you did a minute ago, that you were not paid for these services?

A. My point most particularly on that is, it is given out to the public that I have got a great many offices, and that they were salaried offices. I would like to have it under-

stood thoroughly that they are not ; that the only salary I get is \$1,000 a year as Supervisor of the Town, and it is necessary for me to do some other business.

Q. Do you draw a distinction between the duty of a public office who has a salary and one who has not, as to the faithful discharge of his duties in that office ?

A. No, sir.

Q. Then why did you advert to the circumstances in excusing yourself from the non-performance of a duty, by saying that there is no salary attached to the office ?

A. For the reason that I am a builder, and it is necessary for me to attend to my business ; that I devote that amount of time for this purpose, and that whenever any complaint is made by a citizen, or any authority whatever, either by the District Attorney or the Sheriff, or anybody else, that I have always stood ready and willing to do my duty, and I do so to day.

Q. Now I come back to the question whether you consider there is power in the Police Department to suppress gambling at Coney Island ?

A. There is not enough power.

Q. What is the trouble ?

A. We have not police enough.

Q. You appoint over one hundred men, as I understand it, as policemen during the season ?

A. We appoint just 22.

Q. But you appoint special deputies ?

A. Special men.

Q. Seventy in one place and about as many in the other ?

A. We have nothing to do with those.

Q. They are under your control ?

A. They are if there was a riot. Their duties are defined. If there is a riot, or anything of that kind, we can go to those specials of those hotels. The only force we can command is 17 men in the whole town of Gravesend.

Q. Is it the duty of one of these men to arrest for a crime in his sight—one of these specials ?

A. He is sworn to do that ; to keep the peace, yes, sir. He takes the regular oath of an officer.

Q. Supposing you knew the fact that these specials were

at the race tracks while gambling was going on, and that no arrest was made, would you discharge these policemen?

A. If such was the complaint, yes, sir.

Q. Would you wait for a complaint?

A. If I knew it by my own personal knowledge I would do it.

Q. You did not know of your own knowledge that gambling was conducted on these tracks?

A. I went only from public rumors at the time I made those arrests where I bought the tickets.

Q. Did you suppose there was any difference in the condition of gambling on the day you bought those tickets from what it was on other days when you did not buy them?

A. I don't know; I can't tell.

Q. Could you not have advised yourself by attendance on the race tracks whether gambling was going on or not?

A. I could have done so.

Q. You did not consider that a part of your duty?

A. Not unless there was complaint made.

Q. You again limit your duty to taking action when complaint is made?

A. I think so.

Q. You think your duty ends there?

A. I think that is the duty of every superintendent of police.

BY MR. PARSONS: Q. Mr. McKane, I do not quite understand and wish you would explain a little more fully what occurred on the day in September, 1883, when you purchased the ticket?

A. Mr. Engeman and three or four other people—I have got that, I think, where the tickets were bought. (Witness refers to memorandum.) Mr. Engeman and three or four other people were arrested that time.

Q. Please confine your attention to what occurred at the particular time when you made the purchase of a ticket?

A. They were selling pools.

Q. Who was selling pools?

A. I don't know the parties.

Q. Describe, please, how many parties there were and how it was done?

A. There were booths, and a desk, or counter rather: there were rails running up to that counter, and the people went in there in single file and passed out, bought their ticket at the pigeon hole and passed out to the left or right, whichever way they started in to go.

Q. Stopping at the counter while they made the purchase of the pool?

A. Stopping at the counter while they made the purchase of the pool.

Q. Is that the way you made the purchase of your ticket?

A. Yes, sir.

Q. How much did you pay for your ticket?

A. I think it was five dollars.

Q. How many persons were there behind the counter?

A. Two or three there, I guess.

Q. Describe the booth?

A. The booth is a room. I should judge, about 25 feet long, probably longer, and about 12 feet wide; stands behind, all enclosed.

Q. Was it a separate building or was it a room in a building containing a large number of other booths?

A. It was a room erected in a large booth where the people all congregated on a platform.

Q. How many booths were there in that building?

A. Two: one on each side of the fence. They had what they call two places to buy tickets, at different places I supposed, I don't know. Those are the only tickets I bought.

Q. Who were the proprietors?

A. Mr. Engerman.

Q. Was Engerman the proprietor of both?

A. William A. Engeman; yes, sir.

Q. At what race course did that occur?

A. Brighton Beach.

Q. How many race courses are there within your jurisdiction?

A. Four.

Q. Name them ?

A. The Coney Island Jockey Club, the Brighton Beach Racing Association, the Brooklyn Racing Association and what they call the Deerfoot Park, the Half Mile Track.

Q. How many booths are there at each of those places ?

A. I couldn't tell you.

Q. State your best judgment of the number ?

A. In the whole of them you mean ?

Q. Yes ?

A. Well, there might probably be 100 or 125.

Q. State as well as you can the number at the respective places ?

A. I think about fifty on the Coney Island Jockey Club of boxes or booths that they have for bookmaking. On the Brooklyn I guess about the same ; and at Coney Island there may be ten or fifteen there.

Q. Are they all arranged in the same general way ?

Q. On the Brooklyn and Coney Island Jockey Club, yes, sir.

Q. What is the length of the double rail through which persons pass up to purchase the ticket ?

A. About ten or fifteen feet, I suppose.

Q. How many persons have you ever seen in line ?

A. I couldn't tell you that ; I don't know.

Q. How many persons can stand between the two rails in line ?

A. One.

Q. Only one in this length of twelve or fifteen feet ?

A. I mean one abreast.

Q. I mean just the other way, how many in line ?

A. As many as can stand in ten or fifteen feet.

Q. That would be ten or a dozen persons ?

A. Yes, sir.

Q. Have you not seen the line often with more persons extending far beyond the length of these two lines of rail ?

A. I have never been on those race tracks only on the occasions that I have stated before. I can tell you all that happened during those two times.

Q. Describe the lines and the number of persons in line on those two occasions?

A. I suppose probably twenty or thirty in line.

Q. Who kept them in order; how were they kept in order beyond the two lines of rail?

A. They had their own private men for that.

Q. Who had their own private men?

A. The people who sold tickets.

Q. Who do you refer to?

A. Engeman's folks. I don't know the man who sold them; the clerks I suppose.

Q. Were these, the private men of whom you speak, policemen?

A. No, sir; not policemen.

Q. Were they not persons whom you had qualified as special policemen?

A. I think not; no, sir.

Q. Have you any information or knowledge on that subject?

A. No, sir; I don't know the names of the men. I know some of them were city men, and others of them were men from Gravesend but whether they were specials or not I can't remember now.

Q. How do you know they were employed by these persons who were engaged in selling tickets?

A. Because I saw them there.

Q. What were they doing, describe it?

A. They were standing there keeping the men in line.

Q. How many to each booth?

A. Well, I couldn't tell you that. I didn't take notice of all these things that once that I was there.

Q. Were they in uniform?

A. No, sir.

Q. Did they have any badge to indicate they had any public duty or position?

A. No badge on their breasts that I saw.

Q. Now I am curious to know, Mr. McKane, whether you have built any of these booths?

A. Yes, sir.

Q. Have you built them all?

A. No, sir.

Q. Which of them have you built ?

A. I have built some for Coney Island. I did not build any for the Brooklyn Club.

Q. When did you first build any ?

A. I think I built some bookmakers' stands last year and the year before.

Q. None before 1885 ?

A. I may have, yes, sir.

Q. I wish you would be accurate about that and state as well as you can when you first built any of these booths ?

A. I want to be as accurate as I can. I want to answer the questions thoughtfully. I say I built some last year and the year before. Previous to that I don't know whether I built them or not. I done a great deal of work there.

Q. Did you not build the booth at which you made the purchase of the ticket in September, 1883 ?

A. No, sir.

Q. Can you remember whether you have built booths as early as that time—September 1883 ?

A. I did not, not in 1883.

Q. For whom did you first construct any of these booths ?

A. For the Coney Island Jockey Club.

Q. How many have you built for them ?

A. Different kinds. I suppose about 100.

Q. Who gave you the directions ?

A. The superintendent.

Q. Who instructed you to put up these two line of rail ?

A. I never put any up. That was in the Brighton Beach Association those rails were.

Q. What, if anything was done by you in building the booths that were constructed by you to keep the people in line ?

Q. Nothing. These booths were boxed or raised.

Q. Describe the mode of construction of the booths you built ?

A. They were made about four feet square, with no top on ; a floor on the fourth side, a floor standing on four legs

about a foot from the ground ; a door there for a man to step in ; a shelf laid over like this for his book to lay on.

Q. Why did you build it in that way ?

A. I was directed to do so by the superintendent.

Q. For what purpose ?

A. I don't know. I never ask a man what he is going to do with his work.

Q. What purpose did you suppose they were being constructed in that manner for ?

A. I supposed they were for the race track.

Q. For what part of the race track ?

A. Bookmaking.

Q. Did you at that time know that was a violation of the law ?

A. I don't know it yet.

Q. Did you at that time regard it as illegal ?

A. I did not. Not bookmaking, no sir ; I did not.

Q. On how many days do you think that racing went on at Brighton Beach Race Track in the year 1884 ?

A. I think they run—from rumor, I suppose they run about one hundred days. Something in that neighborhood.

Q. Don't you remember it being announced in September, 1884, that a particular day was the 125th day of that season ?

A. I think it was, yes, sir.

Q. Is it not then a fact that in the season of 1884 racing was on for at least 125 days at the Brighton Beach Course ?

A. Well, I remember of the notice of 125 days. I think it was in 1884.

Q. Did you read a newspaper at that time ?

A. Yes, sir.

Q. A daily newspaper ?

A. Yes, sir.

Q. What newspaper or newspapers did you then read ?

A. Well, I read the World, the Union and the Eagle.

Q. Did not one or all of those papers on each one of these 125 days give an account of racing at the Brighton Beach Course and also give an account of the pool selling that was going on each day ?

A. They may have done so. I can't tell just exactly what they said. I suppose so.

Q. Don't you remember you often observed reports of that kind ?

A. No, sir, I never was interested in that kind of work.

Q. You mean to be understood, Mr. McKane, that you read your newspaper and avoided reading the report of the racing ?

A. I mean to have it understood that I read the newspapers and that the racing business did not attract my attention because I was not interested.

Q. How did you help seeing what these newspapers which you read from day to day reported as to pool selling going on from day to day at the Brighton Beach Course ?

A. No question but what I noticed it. I don't say I did not.

Q. Is this then the fact, that for 125 days there was going on the racing, the newspapers which you read stated that pool selling accompanied the races at the beginning of the season and you were notified by the District Attorney to stop it and you never made an effort to stop it except on one occasion ?

A. You are talking now of 1883 ?

Q. 1884 ?

A. I say we made arrests and we have got the records to show.

Q. Did you make arrests on more than one occasion in 1884 ?

A. I don't remember now. I couldn't tell you. It is a matter of record.

Q. How many policemen do you wish the Committee to understand it would require to stop pool selling on any day at the Brighton Beach Course ? Would not one be able to do it ?

A. I don't know but he would be able to do it, yes, sir.

Q. Don't you know that he would be able to do it ?

A. I think they could go down there with four or five men and stop the whole thing, yes, sir.

Q. Why couldn't one man do it ?

A. I don't think he could, no, sir.

Q. Why couldn't one man detailed by you for the purpose to stop this public pool selling at these places built by you and which you have described ?

A. He might do it, yes, sir.

Q. Explain, if you can and will, why, having received the letter from the District Attorney, you never sent one policeman down there for that purpose except on the single occasion about which you have testified?

A. I say I did send them down as soon as I got the communication from the District Attorney; but those whom I sent, as the gentleman asked me, I couldn't tell. He asked me whether I went. I don't remember, but I say I attended to it as soon as I got the communication.

Q. Why did you not attend to it on more than the single occasion?

A. For the same reasons that I have given heretofore, that I done it on occasions when complaints were made that the law was violated.

Q. What do you mean by complaints for which you wait before taking means to prevent crime; what sort of complaint?

A. I mean if a man comes to me and says that H. Jones Jones is doing so and so, it is my duty to have that man arrested if he is doing wrong. If a man comes and says So-and-So keeps a disorderly house, it would be my duty to have a warrant issued and have him arrested. But they must stand and be witnesses. It is all very well to talk about houses of prostitution and race tracks, but when I want them to come around as witnesses and swear they saw these things, it would be a pretty difficult thing to get a man to say that he was in such a house and have these charges substantiated. I say wherever complaints are made and substantiated that I have always done my duty.

Q. What I wish to have made clear is why if one man can stop pool selling at Brighton Beach Course you do not detail one man to do it?

A. I say we had but 17 men to police the Town of Gravesend; that four of those were in the place called the Gut, as the counsel called it; and four more at Sheepshead's Bay. That leaves us nine men to police three miles and a half of shore front. They devote all the possible time they can spare to do so. When Mr. Pinkerton and such men as that had the control of these race tracks I supposed they

knew as much about the law as I did ; they were sworn officers the same as I am. I am not sworn at all, but they claim it is my duty and I claim they were attending to that matter, and they were just as competent as I was to attend to it. I heard all the complaints that were made to me personally and I attended to them.

Q. What reason have you or did you have to believe that Pinkerton's men were doing anything to stop pool-selling at the Brighton Beach Course in 1884 ?

A. None whatever.

Q. Why then do speak about their duty, and what they were sworn to accomplish ?

A. I say that they were officers and that they were at the——

Q. Did you regard yourself at that time as the head over the police of all your jurisdiction ?

A. Not over Mr. Pinkerton's men ; no, sir.

Q. How many men did you take with you on the occasion in 1884 when you did make an attempt to stop pool-selling ?

A. Not over four or five.

Q. How were you able to spare those men on that day ?

A. They were specials that I collected for that purpose ?

Q. What prevented you from collecting one or more specials for special service on any other one of June 1, 2, 5 and 6, 1884 ?

A. For the reason that we had no funds to pay for it. I done that out of my own pocket, because there was a complaint made to me personally about it.

Q. Who made the complaint on that occasion ?

A. The District Attorney made that complaint in his letter, and he called my attention to it several times before that, and had also complaint from citizens.

Q. Do you mean complaints from citizens applicable only to that one time ?

A. No ; the different times that I made the arrests.

Q. I don't yet understand how many dates in 1884, if more than one, you did make arrests ?

A. I made several arrests in that year, but just when

and just how many I can't tell. That is a matter of record in the Justices' Courts, and I suppose they will be able to give it to you.

Q. Mr. McKane, it isn't how many arrests you made that I am asking you, but on how many days in 1884 you made any arrests at the Brighton Beach Course?

A. I can't tell you how many.

Q. Did you do so on more than one day so far as you recollect?

A. I think so; but I wouldn't swear positively whether I did or did not.

Q. Now, sir, have you anything whatever in addition to what has been stated by you that you wish to say by way of explanation of your having done nothing more than that which you have testified to stop the pool-selling that was going on at the race courses in your jurisdiction?

A. I don't know that I could say anything more. I attended to it every time that there was a complaint made—every time that my attention was called to it as Chief of Police, and every time that the District Attorney called my attention to it I went and made those arrests; and every time that one of my officers made any complaint of gambling or anything else, I attended to that. That's all the explanation that I can possibly make that has not been made.

Q. Were you acquainted with the proprietor of each of these race courses?

A. I knew Mr. Engeman; yes, sir.

Q. What is Engeman's relation to the Brighton Beach Course?

A. Mr. Engeman was the owner—William A. Engeman; George Engeman is the manager and one of the trustees, I believe.

Q. Are you not acquainted with the persons who compose the Coney Island Jockey Club?

A. I am acquainted with Mr. Lawrence; yes, sir; he is the secretary.

Q. With whom have you made your business arrangements with the Coney Island Jockey Club?

A. Mr. Lawrence was the superintendent.

Q. Is he constantly at the race course when races are going on?

A. I don't know, sir.

Q. Has he been there every time when you have attended?

A. I saw him the day that I was there; yes, sir.

Q. Have you ever said anything to him upon the subject of pool selling?

A. I did.

Q. When?

A. I think it was last year.

Q. What did you say to him?

A. I told him that they would have to stop this pool selling.

Q. Fix the date when that occurred?

A. I can't fix the date; it was in the fall meeting; I cannot tell the date.

Q. In 1886?

A. Yes, sir.

Q. How long, at that time, had you been acquainted with Mr. Lawrence?

A. Well, I am not particularly acquainted with him; I have met him probably a dozen times in my life; not more than that.

Q. What I want to know is, during how many years has your acquaintance with him existed?

A. Two years.

Q. Why did you wait until the fall of 1886 to tell him that pool-selling must be stopped?

A. I told them before that.

Q. Why did you wait until the fall of 1886 to tell Mr. Lawrence that pool selling must stop?

A. I didn't wait; I said I had arrested them previous to that.

Q. I remember that you said that. I want to know why you waited until the fall of 1886 to speak with Mr. Lawrence upon the subject?

A. The reason that I spoke to Mr. Lawrence about it was at the time I went to get this proof. After the arrests were made I told Mr. Lawrence, "This will have to be

stopped." This was after the arrests. I told him, "This will have to be stopped until the matter is arranged in some way by the Legislature;" and that is all the conversation I had, and I would haven't had that only I went there for the purpose of making arrests.

Q. What did you mean by saying, "That this will have to stop until the matter is arranged in some way by the Legislature?"

A. I supposed they would try to pass a bill allowing pool selling; I didn't know.

Q. What did you hear about an effort to pass a bill allowing pool selling?

A. When?

Q. At this time?

A. I don't know much about it; no.

Q. I mean at the time that you told Mr. Lawrence that pool selling must stop until the matter was arranged by the Legislature; what did you know about any effort to legalize pool selling?

A. I don't know any. I said that that would have to be done or else that would have to stop. I didn't know of any.

Q. Mr. McKane, this leads me to inquire whether anybody has ever spoken to you on the subject of legalizing pool selling—passing an act of the Legislature to make it legal?

A. No, sir, only a casual conversation; I might be talking to different people and they would say that they ought to have such a bill, or they ought not; that is all.

Q. Who are the different people with whom you have had that kind of conversation?

A. Friends of mine around the town or around Brooklyn or anywhere that I would meet them.

Q. Name the friends of yours in the town with whom you have had that sort of talk?

A. I didn't pay any particular attention to it; it was a general conversation.

Q. I don't ask you how much attention you paid to it; I merely want the names of your friends?

A. I don't remember who they were particularly.

Q. Can't you name one of them ?

A. I have talked with some of the police officers and I have talked with the captain of the police.

Q. Are they the only persons ?

A. Well, I may have talked with a dozen; I can't remember.

Q. Now, Mr. McKane, are the captain of police and the officers of the police the persons to whom you referred as friends of yours with whom you had conversation about the Legislature legalizing pool selling ?

A. Are they friends of mine ?

Q. Are they the persons to whom you referred a short time ago as your friends—the captain and the officers of police ?

A. Well they are, a portion of them; yes, sir.

Q. I want the names of those persons ?

A. I can't give it to you.

Q. Can't you give the name of one ?

A. I can't remember. I have had conversation with several; and I have talked with the people in the county, that there ought to be something of that kind done, and I talked with different people.

Q. Can you not give us the name of one person with whom you have had conversations of this kind ?

A. I could.

Q. Was the gist of the conversation, that the Legislature should pass such a law or that it should not do so ?

A. The conversation was: I have gone to the County Auditor's office and met some of my friends there, Mr. Walker and Mr. Gilhooley, and a lot of those people, and I got acquainted with them, and got talking about different things and sometimes touched on pool selling, and we might probably get into conversation and say that there ought to be something done in the Legislature either to make this thing legal or to stop this thing altogether, one or the other.

Q. How could the Legislature stop it altogether ?

A. I am not a legislator and I can't tell you.

Q. What was said upon the subject of these conversations, about any mode by which the Legislature should stop it altogether ?

A. Not that the Legislature should stop it altogether. I say that the Legislature should either pass the bill (that was the conversation), or else that it should be stopped altogether.

Q. Was there anything to your knowledge done about the preparation of such a bill ?

A. I don't know of any.

Q. Did you hear of it ?

A. I heard they had such a bill in Albany; yes, sir.

Q. Who prepared that bill, so far as you heard ?

A. I don't know.

Q. Know where it was prepared ?

A. I don't know.

Q. When ?

A. I don't know.

Q. From whom did you hear that there was such a bill that had been sent to Albany ?

A. By the newspapers.

Q. When was that ?

A. Shortly after it was introduced; the next evening, I guess.

Q. The next evening ?

A. I think so, yes.

Q. Can't you fix the year when this occurred ?

A. When what occurred ?

Q. I mean when a bill was sent to Albany on an evening, and in the next morning a notice of it appeared in the newspapers ?

A. Well, there has been two or three bills that I have saw in the newspapers; I think that there was in 1884 or 1885; I aint sure which.

Q. Well, go on.

A. I don't remember; I never got interested in it enough for that, and I don't remember.

Q. Please don't tell me how much you were interested, but when it was that you say these bill were sent to the Legislature ?

A. I think 1884 or 1885; I aint sure which.

Q. Mention the time of the first bill, of the second bill and of the third ?

A. I can't do it.

Q. Has there been an attempt made during each session of the Legislature of 1884, 1885 and 1886 to legalize this pool selling?

A. I believe in two of those years there have.

Q. Which two?

A. I aint sure whether it was in 1884 or 1885; and now there has been in 1887.

Q. Who has had anything to do with the bill of 1887?

A. I don't know.

Q. When did you first hear of it?

A. I saw it in the papers the evening after it was introduced.

Q. Do you mean that that was the first notice that you had that such a bill was to be there?

A. Oh, that was the first notice that I had that it was going to be done, yes, sir.

Q. Are you quite clear in your recollection that the arrests were made on the day in September, 1883, when you bought a ticket?

A. I have got the record right here.

Q. I wish that you would be sure about that?

A. Well, I can't remember all those things, and I took a note of this one in particular because I was indicted shortly afterwards, and it rested very much on my mind.

Q. It is fair to you, Mr. McKane, to state that there seems to be a difference of opinion on that subject, and therefore I wish to know from you whether you mean to assert positively that on the day upon which in September, 1886, you purchased a ticket, arrests were made?

A. Yes, sir.

Q. You are sure about that?

A. I will give you the time, but I don't remember exactly.

Q. Suppose you refer, please, first, and then give us the result?

A. I don't think it was the same day, if my memory serves me right.

Q. Then comes this point: Did you have any doubt that pool selling was going on on the occasion when you yourself purchased a ticket?

A. No, sir; I purchased that ticket for proof that it was going on.

Q. What did you do on that day to stop it?

A. I am not certain whether it was the day that I made the arrest, or whether I went to a Justice of the Peace and made a complaint and arrested them the next day.

Q. What I wish to find out is what did you do on that day to stop the pool selling that you then saw going on?

A. I say that I don't remember whether I made the arrest that day or the next day after making a complaint to a Justice of the Peace.

Q. Well, did you, at any time, do anything to stop the pool selling which you then saw was going on except at some subsequent time to make arrests?

A. I don't remember that; I said that, I have got the names of the arrests that were made, and on the day that they were made.

Q. Do you at any time carry a badge of office?

A. No, sir.

Q. Are you pretty well known in your town?

A. Very well, yes, sir.

Q. Do they all know that you are the head man down there?

A. They know that I am a supervisor.

Q. Well, is there any man ahead of him in your town or in any town?

A. I believe that that is the highest office in the town, yes, sir.

Q. I wish to make clear, whether on the very rare occasions upon which your yourself visited the race courses in your jurisdiction, you personally did anything to stop the pool selling that was then going on?

A. There has been other arrests made by complaining.

Q. Now, Mr. McKane, that is exactly what I do not ask you about; I want to find out whether, when you saw that this pool selling was in full play, you then and there did anything to stop it?

A. When I saw it myself?

Q. Yes

A. Yes, sir.

Q. What did you do ?

A. I said that I made the arrests, or made a complaint to a justice, and I wasn't sure which I done first ; the way, as I understand the law now, is that you can't go and grab a man and do just as you please with him, without a warrant, and I generally try to be as cautious as I can, and at the same time do my duty ; I may have perhaps went and got the warrant and then went afterwards, if the racing was done for that day ; I may have went the next day, or the day after that when I got the warrant from the Judge and made those arrests ; I would like to have that clear.

Q. I would like you to explain what you mean about that ; is there any doubt that a police officer has the right to stop the commission of crime which is going on under his own observation and in his own presence, without a warrant ?

A. If he sees the crime committed himself, I suppose he has the right to arrest them.

Q. Now, what I want to find out is, whether you ever exercised this right on the occasions when you have been at either of these race courses at which you have seen pool selling in full play ?

A. I will say, Mr. Parsons, that after I made the arrests in 1883 and took people before the Justice of the Peace. I might just as well try to go to a furnace and not get hurt, when it was red hot, as to try to walk towards that race track and attempt to arrest anybody else. They knew me well, and as soon as I would go anywhere near the race track, if they were selling pools they would stop while I was there ; and that was done on several occasions. But I am telling you the truth so far as the arrests were concerned.

Q. Then it comes down to this, does it not, that your mere presence there stopped the pool selling ?

A. There is no question about that ; I think I could if I went there myself.

Q. Then why were you so careful to stay away ?

A. Because I had no business there, I thought, unless there was complaint.

(The examination of the witness was then continued by Mr. Goodrich.)

By MR. GOODRICH. Q. I want to call your attention to a statement in the paper, which I omitted ; when this letter of Mr. Ridgway was sent to you in April, 1884, were you not interviewed by the omnipresent reporters from the World and the Brooklyn Union and some other papers ?

A. I may have been ; I have been interviewed a good many times.

Q. Didn't you say to a reporter from the New York World, that you didn't propose to interfere with the pool selling at Brighton Beach or Sheepshead's Bay ?

A. I did not.

Q. The New York World of April 23, 1884, contains the following statement as to an interview between you and the reporter which I read :

"I propose to make a sweep of the Island and get the violators of the law in arrest"; he said, (referring to you.)

"What will you do about pool selling on the race tracks?"

"I don't propose to interfere with the pool-selling at Brighton Beach and Sheepshead Bay."

Q. Was there any such statement made by you or anything substantially to that effect ?

A. It is about as true as those things generally are. I suppose ; but I say that I did not have any such interview at all, so far as pool-selling is concerned.

Q. Did you have any such conversation as that with the reporter ?

A. There may have been a conversation about stopping all kinds of violations.

Q. But you say you never said that you did not propose to interfere with pool-selling at either one of these race-courses ?

A. Well, I think I wouldn't have been foolish enough to say anything of that kind.

Q. I only take it from the newspaper. And I notice also a statement in the Brooklyn Union of April 22, 1884, in which the following interview is said to have occurred with you :

"Will you confine your work to the suppression of the places on the Island ?

"What do you mean ?

“ Well, don't suppose they will have pool-selling on race-tracks ; what will you do with them ?

“ I don't propose to interfere with either Brighton Beach or the Jockey Club at Sheepshead Bay.

“ Don't you thing they are violating the law as much as outsiders are ?

“ I don't argue for the morality of the thing at all ; I believe, though, that the influence of gambling is no worse than liquor selling. I am not a betting man : I never bought a pool ticket in my life, and don't expect to, and I can't see how anyone is compelled to buy because these things exist.”

Q. Did substantially that conversation occur between you and any reporter ?

A. I don't remember the conversation ; there may have been such a one, but I haven't nor I never did tell any reporter that I would not stop pool-selling.

Q. Nor interfere with it ?

A. No, sir.

Q. Or book-making ? Have you ever told any reporter that you wouldn't interfere with book-making at Coney Island or Brighton Beach ?

A. No, sir.

Q. On no occasion ?

A. Not that I remember ; no, sir.

Q. And didn't you also have in June, 1885, a notification from Anthony Comstock in the shape of a letter in regard to gambling at Coney Island ?

A. I said so in my evidence before, that I had received a communication from Mr. Comstock.

Q. What did you do in answer to that letter ?

A. I don't remember whether I done anything or not.

Q. You knew at that time that Mr. Comstock was an agent or officer for the Society for the Suppression of Vice, did you not ?

A. No ; personally I did not know Mr. Comstock.

Q. But you knew it from rumor ?

A. Yes, sir.

Q. And you knew that he had been quite active in the attempt to suppress gambling, did you not ?

A. I don't know. I know that he had on two or three occasions come down there. He was down on Coney Island one day and I escorted him around to see if we could find anything.

Q. You knew he was interested in the subject ?

A. Yes, sir.

Q. And that he was anxious to stop gambling at Coney Island ?

A. Yes, sir.

Q. Mr. McKane, you have stated that you were arrested on the 24th of September, 1883, with certain other men who were policemen ; do you remember the names of any of those who were arrested at the time with you ?

A. One of them was a constable named Garrison Morris.

Q. Do you remember any other ?

A. I think William Boyle. I don't remember the others. There were four or five.

Q. Was either of the persons whom you have named one of your regular police officers—one of the 17 ?

A. I don't remember now whether he was or not.

Q. Have you any means here of telling ?

A. Not here. Well, I guess it is in that record.

Q. State the names of the policemen who were employed in 1883 ?

A. I haven't the list here.

Q. Do you know whether John Finnigan was one of the policemen in 1883.

A. He was a special ; yes, sir.

Q. A special officer detailed for what place ?

A. No place in particular.

Q. Was he under your pay ?

A. No, sir.

Q. Under whose solicitation was his appointment made ?

A. I cannot tell you. He came the same as all the rest and asked to be appointed : to get a job the same as all the rest.

Q. Do you recognize the name of James Dunphy ?

A. Yes, sir.

Q. Was he a regular ?

A. No, sir.

Q. Was Bernard Grueber one of the regulars ?

A. No, sir.

Q. Edward Fagan ?

A. No, sir.

Q. Richard Fortune ?

A. No, sir.

Q. James S. Quigley ?

A. No, sir.

Q. James Martin ?

A. No, sir.

Q. Then Garrison Morris and William Boyle, who were two of the persons arrested at the same time that you were in September, 1883, were the only persons of those arrested who were regular policemen ?

A. Garrison Morris is elected a constable by the town. William Boyle, I don't remember whether he was a special or not.

Q. And these men were continually at the track—for what purpose ?

A. No, sir ; Garrison Morris laid sick in his bed.

Q. But he was arrested, was he not ?

A. Yes, sir ; he was. That I can show very easily when I get the certificate,

BY MR. GREENE : Q. Did the fact that you as a carpenter and builder, by competition, obtained the contract to put up buildings on this race course, have anything to do with your official action ?

A. None whatever.

Q. At any time ?

A. No, sir ; none whatever.

Q. Was there any competition ?

A. I was asked the same as you or anybody else to put in a bid for a job and I put in those bids according to plans and specifications. I was told that I would have to bid against other people. That is all I know about it.

BY MR. GOODRICH : Q. You never did hear of any other people that did bid against you ?

A. You can prove that by them. I can't tell you, for I don't know.

Q. How many booths do we understand you that you erected on the Coney Island Race Course?

A. I think about a hundred; somewhere in that neighborhood.

Q. And yet you said that in all the four courses there were only about 125?

A. Well, I say that still.

Q. Well, then, how many were there on the other courses; a hundred more?

A. There is only three that run horses that I know of; the other one and the Brighton Beach Association.

Q. How many are there there at Brighton Beach?

A. Only four or five. They used to sell this mutual ticket or something or another. I don't know.

Q. They didn't have to have booths?

A. They had some booths. That is the way I understood it.

Q. In what sort of booths did they sell them, in what you call the other way?

A. As I explained to Mr. Parsons, they had a large room, and a counter running through, and rails coming out about two feet, and people would come up there and get a ticket and pass along.

Q. Was there as much gambling done in that place as there was in pools?

A. It was about the same, I guess.

Q. Then it was the equivalent in those two cases to about 200 booths; I should like to get at the magnitude of those in some way?

A. I gave you 125. That is all I know of.

Q. And then besides there were these other places where gambling was done?

A. No, sir, including all.

Q. You call those places booths?

A. Yes, sir; the booths were in the neighborhood of 110 and then there might have been 10 or 15 of these booths where those tickets were sold; but I don't know as much about that. But I am giving you the outside.

James W. Ridgway, being duly sworn and examined, testifies :

BY MR. GOODRICH : Q. When were you admitted to the bar ?

A. In 1872.

Q. And you were elected District Attorney for a term commencing on the first of January, 1884 ?

A. Yes, sir.

Q. And re-elected District Attorney for a term commencing the first day of January, 1887 ?

A. Yes, sir.

Q. You are familiar with the Code and the Penal Code ?

A. Yes, sir, somewhat.

Q. And before you became District Attorney you had given some of your attention to criminal law and proceedings ?

A. Yes, sir.

Q. When did it first come to your attention that there was gambling at Coney Island ?

A. When I read of it in the newspapers.

Q. When did you read of it in the paper ?

A. Well, I can't tell you what particular time I first read of it.

Q. How early in your first term ?

A. I guess about the time the races commenced.

Q. Which would be in the early summer of 1884 ?

A. The late spring or early summer of 1884.

Q. You are in the habit of reading the daily papers ?

A. Some of them, not all.

Q. Somewhat extensively ?

A. Not all of them, sir.

Q. I suppose in the discharge of your duties as District Attorney your attention would be attracted to such portion of the papers as had reference to public crimes ?

A. Most likely, sir.

Q. Was your attention in 1884 attracted to the advertisement of racing and the notices of races ?

A. Yes, sir.

Q. Look at the article clipped from the New York

World of December 18th, 1884, and see whether such articles attracted your attention?

A. (Examining the paper.) I could not tell that particular article. I read the papers generally.

Q. Did you see notices in the papers of pool selling at Coney Island?

A. I did, sir.

Q. As early as the late spring or early summer of 1884?

A. I could not exactly tell you; but during the time I have been in office from time to time.

Q. And even before that?

A. Before I went into office?

Q. Yes.

A. Yes, sir.

Q. And you have known during all your terms as the prosecuting officer of Kings County that pool selling at the race tracks in Coney Island was openly, publicly and continuously conducted while the racing was going on?

A. I inferred it from the articles and from the testimony before the Grand Jury and the Courts.

Q. You knew it at the time, did you not?

A. I did not know it personally, Mr. Goodrich. I do not intend to be at all disrespectful to you; but I did not attend the races personally. I read it in the newspapers and I inferred that it was so—I assumed it was so.

Q. Have you ever attended the races at either of these places?

A. Not since I was District Attorney.

Q. I only ask you since?

A. No, sir.

Q. You never have been on the race track at all since you have been District Attorney?

A. No, sir; I never have been near them.

Q. I think I must have been misinformed; but did you not go down once for the purpose of making arrests?

A. No, sir.

Q. Not for the purpose of making arrests?

A. No, sir; I think you have been misinformed on a great many matters as well as this, Mr. Goodrich,

Q. You did not go down with officers for the purpose of making the arrest of the offenders?

A. No, sir.

Q. It comes down to this: that you knew during the early part of 1884, and during the seasons of 1885 and 1886, that it was publicly stated that gambling was going on at Coney Island?

A. Oh, yes, sir.

Q. On three race tracks?

A. Yes, sir. That is, not during the whole time; there were but two part of the time.

Q. During the whole time there have been two, and part of the time another one?

A. Two, yes, sir; and one started I believe last year.

Q. The Brooklyn Jockey Club was started last year?

A. Yes, sir.

Q. The system of bookmaking was introduced in 1885?

A. I don't know when they introduced it.

Q. Do you know what the system of bookmaking is?

A. I do.

Q. Do you know what French pools are?

A. I do.

Q. And that you have learned in the discharge of your duty as District Attorney?

A. I have one of the boxes here, and I will illustrate it to you if you desire to have me do so.

(The apparatus referred to by the witness is brought before the Committee and exhibited).

Q. Will you describe that apparatus?

A. In answer to your question, I will state that this is what is called a "French Pool box," for registering bets according to the French pool system. This box was seized by John Y. McKane on the Brighton Beach track at Coney Island and brought to the District Attorney's office and was used in evidence upon the trial of a case which resulted in a disagreement of the jury last fall, and we have retained the paraphernalia ever since the seizure of the box.

Q. When was this seizure?

A. I think some time about July.

Q. 1886?

A. Yes, sir.

Q. Just describe the registration generally, and its method?

A. I can simply describe it from the evidence given upon the trial. It was described by the witnesses there : that when the purchaser of a ticket approached the place and desired to become a member of the association (they were then working under a system which required a man to join the association), he put in his application for membership, paid his five dollars, and upon that, after naming his horse, they pulled this strap down and it registered another bet. I don't know whether this is in order and whether it will work now ; but by pulling it down it indicated that another member has joined the association.

Q. Another victim you mean?

A. I don't know.

Q. And in that way was the bet between the two accomplished?

A. I don't understand it. I don't say it was a bet. I tried to convince a jury, in company with Mr. Beecher, for two weeks, that it was a bet, but they wouldn't believe me.

MR. GOODRICH : That then, Mr. Ridgway, is one of the few occasions where your eloquent tongue failed of success?

THE WITNESS : I thank you, sir, for the compliment.

Q. In that way was what you call a bet accomplished?

A. Yes ; I contend that it was a bet, a wager ; and I did so contend.

Q. This machine which you have introduced is a large iron-faced table about 36 inches one way and 28 inches the other, which is publicly and openly displayed, or one like it, wherever pool selling is going on?

A. That was the testimony.

Q. How is it hung up ; I notice that there are hooks on this apparatus?

A. I presume those are to hang it up by ; I think it is so testified that those hooks were so placed to hang it over a railing.

Q. And is it not true that any police officer who sees

this instrument, if he knows as much as a policeman ordinarily does, would know that public pool selling was going on ?

A I presume that if he saw it and knew that it was used in violation of the law—saw it being used at the time, it is only fair to assume that he knew the law was being violated.

Q. Can you assume any method in which this could be used in the registration of these pools where there would not be any violation of law ?

A. Oh, it might be used in any legitimate business.

Q. Do you know of any other business in which this is used except for pool selling ?

A. I never saw one used in any other way except this.

Q. According to the testimony on the trial, is it usual that this instrument is hung up where everybody can see it ?

A. It was testified to on the trial that that was an instrument in use for that particular mode.

Q. And that it is a common instrument ?

A. Common for that specific purpose.

Q. And this instrument is used in connection with which kind of pool ?

A. It is called a French pool box ; but on the occasion that I refer to it was used to register the number of members that joined the association. That is a device known as the Duryea system. After we had indicted a number of people and convicted a number of them, the racing people sought a new device which would be an evasion of the law ; so Mr. Duryea, a lawyer of this city, contrived a method of betting which he contended was not a violation of law, and that was a system in vogue only on the Brighton Beach Track, and it was necessary to have something of this character to register the number of people who became members of the association on the various days of the racing.

The witness who testified to that, and upon whose evidence the indictment was found, was sent to me by Col. Beecher, who was the representative for the Society for the Suppression of Vice.

I procured an indictment, and put that witness on the stand and used him on the trial. After that I ascertained that subsequent to his testifying before the Grand Jury he went to the people against whom the indictment was found and exacted a large sum of money from them, and became counsel for Mr. Duryea, the inventor of the system, and compelled the Brighton Beach Racing Association to pay over to Mr. Duryea a sum of money which was due to him on the contract, but which had been withheld by the association because of the action of the Court in indicting him.

Q. You are wandering a little away from my question. I ask you whether this instrument is one which, when hung up publicly where every one can see it, informs the bystander who desires to bet or play pool that this is their best opportunity?

A. Well, so far as I know from the evidence in the case that I have referred to, that is the fact.

Q. When was the Duryea device invented?

A. I think it was in 1885.

Q. That is not what is commonly called bookmaking?

A. No, sir; it differs from bookmaking. It was invented to take the place of bookmaking.

Q. As an evasion of the law?

A. Section 351 of the Penal Code makes it an offence to register or record a bet, and in order to avoid registering and recording of the bet, this system was invented.

MR. GOODRICH: I will read Section 351 of the Code. Is this the Section:

Sec. 351. Bets, etc., on horse races, etc.—A person who keeps any room, shed, tenement, tent, booth or building, or any part thereof, or who occupies any place upon any public or private grounds within this state, with books, apparatus or paraphernalia, for the purpose of recording or registering bets or wagers, or of selling pools, and any person who records or registers bets or wagers, or sells pools upon the result of any trial or contest of skill, speed or power of endurance, of man or beast, or upon the result of any political nomination, appointment or election; or being the owner, lessee or occupant of any room, shed,

tenement, tent, booth or buildings, or part thereof knowingly permits the same to be used or occupied for any of these purposes, or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or becomes the custodian or depositary for hire or reward, of any money, property or thing of value staked, wagered or pledged upon any such result, is punishable by imprisonment for one year, or by a fine not exceeding two thousand dollars, or both.

THE WITNESS: Yes, sir, that is the language of section 351.

Q. In what year was the statute known as the Penal Code passed?

A. About 1881, I think.

Q. So that all the provisions of the Penal Code were in force during all of your term of office?

A. Yes, sir.

Q. Have you been served with a notice or request to produce a list of all indictments found against gamblers since May 1st, 1881, in the Kings County Court of Sessions?

A. I have.

Q. Have you produced such a list?

A. I produce the list, showing the disposition of them. I hope you won't confound the two administrations, Mr. Goodrich?

Q. To whom do you refer in that remark of yours?

A. I hand you the list and I say I hope you won't confound, in reading the list, the two administrations of the period covered by this list. I show you that this list refers to the administration of my predecessor as well as myself.

Q. And to whom do you refer; General Catlin?

A. To my predecessor, General Catlin.

Q. Did you have any other object in making that remark than to draw the line of dates between the indictments found during General Catlin's term of office and those found during yours?

A. No other purpose than this, that you would under-

stand where his administration ends and mine commences.

Q. Your administration commences with the indictment of Theophilus Gilman found on the 23d of February, 1884?

A. Oh no, not the 23d of February, 1884 ; that is not a pool case.

Q. But gambling ?

A. It is policy, yes, sir.

Q. Does that statement contain a list of all persons indicted since 1881, for pool selling, policy dealing, lottery, and gambling of all kinds in Kings County since 1881 ?

A. Yes, sir, it contains a list of every person indicted by the Grand Jury of this County since June 10th, 1881, up to the present day for every form of gambling, and the disposition made of each case and the present status of each case. [See table at end of deposition.]

Q. And who was District Attorney during all the time embraced by that list before you took office ?

A. Prior to January 1st, 1884, Isaac S. Catlin was the District Attorney, and had been for six years.

Q. Can you tell how many indictments are on that list covering the last term of your predecessor ?

A. From June 10th, 1881, to January 1st, 1884, there were indictments presented against 52 defendants for selling policy, of which two were convicted, 48 dismissed and two carried into my administration.

Q. Now refer to the paper again and say how many indictments have been filed up to the present time since your term of office ; and by indictments I refer to indictments whether there are found one or more against the same persons or not ?

A. Yes, I understand exactly what you mean. I will show every indictment—every action brought by the prosecuting officer. Is that what you wish ?

Q. Yes.

A. From January 1st, 1884, up to to day in the City of Brooklyn there have been nine indictments for selling policy, three indictments for bookmaking and five for gambling, making a total of 17 ; of which I have convicted two men of policy selling, three men for bookmaking, the only three charged, and four men for gambling ; making

8 remaining untried, of which 7 are policy cases, no book-makers, and one gambling case. That is for the City of Brooklyn. Now I will give the county.

Q. Confine yourself now to those in your term of office ?

A. Yes, sir. Now I refer to the indictments in the city and county: the first was the suit against Theophilus Gilman, for gambling, February 23, 1884. That is a city indictment.

Q. I don't think we will go over this list in detail; I don't think that is essential for my purpose. I wish you to give the number of indictments besides the 17 already referred to which have been found in the County of Kings since you took office ?

A. I should say about 105.

Q. Are there not more than that ?

A. No, sir; I guess not.

Q. I will have to trouble you to count ?

A. I say about a hundred and five.

Q. Does that include the several indictments found against the racing association as corporations ?

A. Yes, sir; and against the members of the associations as individuals.

Q. About 105 ?

A. Yes, sir; I should say so,

Q. Now will you specify how many of those who were indicted during your term of office have been tried, giving the name of each as you proceed and what has been done in each case ?

A. I think that we have tried every man that we have arrested. Will you allow me an explanation ?

Q. I want you to explain, because I propose that we shall have full and free fair play in regard to yourself, as well as that there shall be fair play in regard to every other person coming before this Committee. You see what I want is this: the disposition of every case that has been tried, and if you take the figures on that list it will be quite convenient ?

A. I was going to make this explanation; that out of the total number of cases I should say about forty-five to

fifty of those indicted were indicted under aliases—John Does, Richard Roes, and Henry Hoes. When those indictments were found, I immediately issued to the Sheriff of the County bench warrants for the arrest of the parties so indicted. In 1886 Lewis R. Stegman was Sheriff of the County of Kings. The bench warrants were issued to him. In some instances he was able to arrest the people, and they gave bail. In other instances, I have the original bench warrants here, with the endorsements of the Sheriff in which he says, "I herewith return the defendant as not found, and further certify that from the best information obtainable I verily believe that such a person does not exist; Lewis R. Stegman, Sheriff, Kings County." As I say most of these indictments were found against John Does and Richard Roes.

The persons making the complaints to the District Attorney's office and upon whose testimony these indictments were found, requested that we should give them the bench warrants to serve. That I absolutely declined to do.

Q. Again you are rather wandering from the point of my inquiry. I want you to tell me of the 105 indictments that have been found, how many have been tried and what disposition has been made of the remainder; if you have got it tabulated, I will take that; if not, I shall have to ask you to take each one on the paper?

A. Well, I can do that much better.

Q. Does this paper contain the names of persons indicted but not arrested?

A. Yes, sir; it contains everybody.

Q. Every indictment that has been found is indicated here?

A. Every one that was ever presented to the Grand Jury, where an indictment was found is on that paper.

Q. And the disposition made in each case?

A. And the disposition made of each.

MR. GOODRICH: We will have this list printed in the record.

(The list presented by Mr. District Attorney Ridg-

way is printed, and will be found annexed to his testimony at the close of this day's proceedings.)

Q. Now can you summarize briefly how many persons were indicted who were not arrested ?

A. Of a total of 105 defendants indicted for gambling since January 1st, 1884, about 45 are fictitious names, such as John Doe, etc., who have never been apprehended ; 13 of the defendants are duplicated, and about 25 are employees. In reality there are less than 20 principals, which include Michael Murray, Charles Kimball, George Hall, Dougal McDougal, George Rose, John Kelly, Albert Cridge, Peter Cridge, Fred. Dutch, James E. Kelly, Thomas Murray, John S. Stowe, and others. The first 7 of those are now under conviction.

Q. You believe that 45 of the persons named are fictitious names ?

A. Yes, sir.

Q. And 13 were duplicates ?

A. Yes, sir.

Q. Do you speak of these as 45 indictments and 13 indictments ?

A. I speak of that in this respect, that 45 of them are indicted as John Does and Richard Roes and Henry Hoes, whom the officers have never been able to apprehend. 13 people are duplicates ; that is, on June 30, 1884, certain cases were presented to the Grand Jury and indictments were found ; afterwards it was discovered that they had been incorrectly named in the indictments ; so charged by the complainant, and they went before the Grand Jury and the parties were indicted again, so that the next batch of indictments was merely for the purpose of superseding the preceding batch.

Q. But they are all embraced in the 105 ?

A. Yes, sir ; and they all go to swell up this aggregate.

Q. Will you tell who was the first person convicted within your term of any of these offences ?

A. I think that James E. Kelly was the first.

Q. Was there any appeal taken in his case ?

A. A demurrer was interposed to the indictment of James

E. Kelly ; yes, sir ; and the demurrer was overruled. The case then went to the General Term ; the General Term affirmed the order overruling the demurrer, and the cases are now in the Court of Appeals.

Q. That is the James Kelly who was on the stand this morning ?

A. The same James E. Kelly ; yes, sir.

Q. You say that cause is now pending in the Court of Appeals ?

A. It is now pending in the Court of Appeals.

Q. When was the return filed in the Court of Appeals ?

A. I don't know ; I don't file the returns.

MR. GOODRICH : I have in my hand a certificate from the Court of Appeals, dated the 15th of March, which I will now read :

“ State of New York, Court of Appeals, Clerk's Office. I, Edwin O. Perrin, Clerk of the Court of Appeals of the State of New York, do hereby certify that no returns have at this date been filed in this office in the following entitled cases, to wit:

“ The People, &c., v. James E. Kelly.

* * * * *

E. O. PERRIN, Clerk.

“ Dated March 15, 1887.”

Q. I ask you now whether you say that case is in the Court of Appeals ?

A. It is.

Q. What do you mean by being in the Court of Appeals ?

A. I mean that after the judgment of the General Term, I was served with a notice of appeal from the judgment of the General Term to the Court of Appeals ; a stay of proceedings was subsequently served upon me made by Judge Barnard, restraining me from moving for judgment and sentence on the affirmance of the General Term, which stay is now in force.

Q. Will you tell me when the first sentence of conviction was had in the Kelly case ; that is, the overruling of the demurrer, as I understand you, and judgment for the people ?

A. December 1st, 1884, I think.

Q. Was a sentence inflicted; what was done upon that conviction?

A. A stay was obtained from Mr. Justice Pratt.

Q. An order staying the sentence?

A. Staying the proceedings on the part of the people.

Q. How long after the conviction was that stay obtained?

A. I think the next day, if I am not mistaken.

Q. Have you any means of ascertaining that; have you the books in Court?

A. No, sir, not with me.

Q. I wish you would send to your office for your books?

A. We have all the books in Court.

Q. Produce the book?

A. The book doesn't show the stay.

Q. Let me see the entry?

A. Just have the books brought here to me.

Q. (Producing a book.) Shall I give you this?

A. (Examining the book.) I am unable to find it, but Mr. Walkley, the chief clerk, is here and he can find it for you.

Q. Don't you keep a record in your office in your register of cases as to when stays are served upon you?

A. I know nothing about the keeping of the record. Mr. Walkley is the chief clerk of the office and has entire charge and supervision of that.

Q. You say that a stay was served; what was that stay; was it a stay of proceedings or of sentence?

A. A stay of proceedings; that is, a stay of proceedings of the People upon the order overruling the demurrer, which entitles us of course to move for judgment and sentence provided that stay was not granted.

Q. That was in December, 1884?

A. Yes, sir, December, 1884.

Q. When was the appeal taken to the General Term argued at the General Term?

A. That I cannot tell you without the record.

Q. Wasn't it on the 11th day of May, 1885?

A. I don't know: Mr. Jenks I think argued that appeal before the General Term.

Q. It would be very convenient to me if I could have that date just now ; haven't you got it in any papers here that would show when that case when argued ?

A. No.

Q. What is the date of that judgment ?

A. June 30, 1884.

Q. Isn't it true that that judgment of affirmance was on the 11th of May, 1885 ?

A. It may have been so. I didn't argue it, and I didn't record it. If you have any record saying that that is the date, I suppose it is true.

Q. I state to you that I have a record saying that it was on the 11th of May, 1885 ?

A. I presume that is correct.

Q. Assuming that to be correct, that the judgment of affirmance by the General Term was on the 11th of May, 1885, what steps had been taken to carry out the sentence ?

A. I gave notice to the counsel on the other side that on a day specified I would move for sentence.

Q. Have you a record of the day when you gave that notice ?

A. It is a matter of record I think in the Court of Sessions. The Clerk of the Court has the record.

Q. Do you recollect how long that was after the 11th of May, 1885 ?

A. No, sir.

MR. GOODRICH: I gave you notice to produce the papers.

WITNESS: I have no papers.

Q. Haven't you a record of it in your register ?

A. I don't think we kept a record of that in the register, We keep the day of the indictment, the name of the party indicted, the offence for which he was indicted, the date of return, the date of the trial, the result of the trial and remarks.

Q. I will correct my statement as to the date of the order of affirmance: the date of the argument was May 11, and the order of affirmance was on June 8th, 1885 ; now I ask you whether there was any order of stay granted by Judge

Barnard in that case until over a year afterwards, or until July, 1886?

A. That may be so.

Q. Don't you know that to be the fact?

A. I know that we received a stay about a year afterwards from Judge Barnard.

Q. What steps were taken to enforce the affirmance of the judgment in that case?

A. No steps, for the reason that it was understood between counsel associated with me, Mr. Beecher and myself, and counsel on the other side, that these cases should go to the Court of Appeals, and that all cases coming under the head of this demurrer, where the same question was raised, should be determined by the result of that decision in the Court of Appeals; and on that a stay was granted. When I give my word to a lawyer that I will grant him a stay, I never break it; and I assumed, a stay being understood between two gentlemen, that the stay existed; and I so regarded that the stay existed until some question was made as to whether the stay of proceedings (granted after the demurrer had been interposed and overruled), to the General Term, was a stay of proceedings still in course to the Court of Appeals; and when it became questionable, and I took the ground that I would not regard that, still I would not take any advantage of the gentleman who believed that it was a stay. Therefore I gave him notice that I would move for judgment. I gave him notice in writing and he then procured a new stay from Mr. Justice Barnard at Poughkeepsie.

Q. Who was the lawyer?

A. The lawyers were William C. DeWitt, Mr. Bowers, of Platt & Bowers, and Jerry A. Wernberg.

Q. How did you come to give the notice that in your judgment there was no stay or that a stay was required in your judgment?

A. Because I thought it was about time that the matter should come up in the Court of Appeals and I wanted to bring on the appeal.

Q. You see by the certificate of the clerk of the Court of Appeals that I have produced, that although this order of

affirmance was filed on the 8th of June, 1885, there has been no return filed in the Court of Appeals up to the present time?

A. I can explain that to you. The argument on the appeal taken to the General Term was heard in Poughkeepsie, and the order of affirmance thereof was filed with the clerk of Dutchess county, he being the clerk of the Second Department when the General Term is held in Poughkeepsie. The Code requires that judgment shall be filed in the Court of original jurisdiction. When they appeal they file their notice of appeal with the clerk of the Court of Sessions: he had therefore no papers upon which he could make a return to the Court of Appeals. The return of the General Term at Poughkeepsie should have been sent by the clerk of the Court there to the Court of Sessions, that being a court of record in this county, and the court of original jurisdiction. But he omitted to do it, and filed it with his papers there. Hence when the clerk of the Court of Sessions of Kings county came to make up his return to the Court of Appeals, he had no papers upon which to make it, they having been inadvertently filed in Poughkeepsie; and we didn't know that it was filed there at the time.

Q. Do you think a period of eighteen or twenty months is sufficient to enable such an error as that to be corrected by a prosecuting officer efficient in the discharge of his duty?

A. It wouldn't take a great deal of time to correct it.

Q. Explain more fully why in regard to the order of preferment in the Kelly case, filed June 8, 1885; there is not yet a return filed in the Court of Appeals, so that this case may be decided and the judgment vacated or the sentence carried out?

A. I am unable to give you any better explanation than I would with regard to any other case in a great public office where hundreds and hundreds of cases are being disposed of all the time. Some cases are bound to go by the board. These indictments, you understand, were simply for misdemeanor, which do not generally go to the Court of Appeals. It was a question whether we would allow persons accused of

burglary and murder and manslaughter to remain in jail while we went to Albany with a case involving a simple question of this kind, or whether we should try such cases as I have referred to first.

Q. Do you mean to say that you have tried any cases of misdemeanor since the 11th day of June, 1885?

A. I don't think we have.

Q. Not a single case?

A. I don't think we have, except pool cases.

Q. In this meantime?

A. Yes, sir. I will explain to you that the Legislature of 1885 passed an act giving our Police Justices original jurisdiction in the first instance to try and dispose of all misdemeanors and cases of that class in this city, except conspiracy.

Q. Don I understand you to say that this case of James E. Kelly is regarded as a test case?

A. Yes, sir.

Q. And don't you understand that there are eight or ten other cases depending upon the decision of that case?

A. Yes, sir.

Q. Don't you consider that under those circumstances a test case is of sufficient importance to impose upon the District Attorney the duty of securing an ultimate decision of the courts upon that question, even if some other cases are delayed?

A. I do; and if the District Attorney of this county had been permitted to discharge his duty without molestation continuously from a lot of cranks and pettifoggers, who, every election time go to the Governor to make charges intending to remove him from office, he might very well bring on a case, unless he leaves the community to infer that he has been obliged to do it, and is acting under coercion. That I never will submit to. If it had not been for that the case would have been tried and determined, and all the rights of the people and the parties would have been preserved and properly cared for.

Q. That answer compels me to branch off and inquire of you an explanation in this instance: you refer, of course, to charges preferred against you to Governor Hill?

A. Also to Governor Cleveland.

Q. During his administration?

A. Yes, sir, and to Governor Hill.

Q. As to those charges: they have lapsed by the termination of Governor Cleveland's incumbency, have they not?

A. Gov. Cleveland didn't concern himself about the matter, didn't deem it of sufficient importance.

Q. Were they ever presented to Gov. Hill?

A. They remained with Gov. Hill and then withdrawn, because they were never verified.

Q. Were they presented to Gov. Hill?

A. When it became known that I would in all probability be a candidate for re-election, they presented the same old charges.

Q. That is in 1886?

A. Yes, sir.

Q. During all the time which elapsed from the presentation of the charges of 1885—

A. They were presented first in 1884; it has been during 1884, 1885 and 1886, before the Governor, before the Grand Jury, and before the Council of Ministers, and finally before the people, who vindicated me by a majority of thirteen thousand last November.

Q. Now, Mr. Ridgway, I return to my first question: What attention did you give to the first charges that were made before Gov. Cleveland?

A. None whatever.

Q. Did you give attention to the unverified charges before Gov. Hill?

A. None whatever.

Q. Did you give any attention to the charges before Gov. Hill after they were verified until you filed your answer thereto in the early part of the present year?

A. None whatever; I wanted them dismissed and out of the way.

Q. Now will you inform the Committee why the consideration which you were called upon to give to those charges which were neither served upon you nor to which you made any answer, required so much of your attention that you could not in twenty months present to the

Court of Appeals an important question upon which eight or ten other cases were pending?

A. I made no such statement as that.

Q. I so understood you?

A. You misunderstood me. I did not say that the charges took so much of my time and attention that I was unable to argue a case in the Court of Appeals. I said to you that the persistency with which those charges were urged and published in the papers, charging me with dereliction of duty, was one of the reasons why I wouldn't press the matter on, because it would leave the inference to be drawn that I was coerced into doing it; as to which I wanted to act freely.

Q. Do you think that that is a sufficient excuse for the non-performance of a public duty?

A. That is the sufficient excuse for the non-performance of a duty in this particular matter; it refers only to this matter.

Q. Do you consider the argument of a great question, in which the community is interested, as they are in this question of gambling, is a subject which requires the careful attention of the District Attorney?

A. Well, if I was influenced by the voice of the community, I would say that the community was opposed to the law.

Q. Wouldn't you say that a large portion of the community was in favor of the enforcement of the law?

A. No, sir.

Q. And its vindication?

A. No, sir; because the platform upon which I ran last year—you made it the issue that gambling must go, and I stood on that platform, and the people seemed to have hurried the thing along pretty quick; we democrats believe that the will of the people is supreme, and we abide by the will of the people.

Q. By "the will of the people" you mean the majority?

A. Always.

Q. Don't you know that a very large portion of the community, as represented by the Council of Ministers, to which you have referred, was in favor of the suppression of gambling?

A. I believe that the Council of Ministers were, and I went before the Council of Ministers and made a defence.

Q. You are wandering from my question again. I wish you would confine yourself, as nearly as you can, to answers to my questions, and I think it will save time!

A. I suppose the ministers are opposed to it.

Q. Was it any part of your duty as District Attorney to do anything else than fulfill the obligations imposed by your oath to discharge the duties of District Attorney?

A. None whatever.

Q. And should you regard public clamor upon either side as an answer to the question why you should be deterred from the performance of your duty as prosecuting officer of Kings County?

A. No, except that I believe that every public officer is vested with some discretion.

Q. I still ask you whether the public clamor and the attack made upon you by the parties whom you denominate cranks were sufficient in your judgment to justify you in waiting from the 11th day of June until this time before securing the argument of the case of the return of that Kelly case to the Court of Appeals?

A. My answer to that would be this: That excepting the ministers, exempting them from this answer, I was perfectly satisfied that the people who made the complaints were engaged in it for an unlawful and improper purpose; that they were engaged in blackmailing the people on the race track.

Q. When did you get that impression?

A. From themselves.

Q. When?

A. I got it in the Grand Jury room when Mr. Leonard W. Jerome declared to the complainants in those cases that the Coney Island Jockey Club would not pay one dollar for blackmailing purposes.

Q. When, I ask you?

A. During one of the presentations.

Q. Which?

A. I do not know.

Q. About when?

A. I should judge it was within a year.

Q. Why within the eight months preceding that did you fail to secure the return of these cases to the Court of Appeals?

A. Preceding that, I was familiar with the reputation of the gentleman prosecuting these cases. I knew it to be bad, and I believed when he asked me for bench warrants against John Doe and Richard Roe and others, upon which he could have arrested either you or Mr. Parsons or any other citizen, and when I refused to give to that complainant those bench warrants to execute I was satisfied that he wanted them for an improper purpose.

Q. When did you first get the impression that the person you had in mind was using or attempting to use these complaints for an improper purpose?

A. General Catlin informed me just as he was going out of office that he had been prevailed upon to give such warrants to this complainant, and that he had never arrested parties nor returned the processes.

Q. Had you got that impression in the early part of 1884?

A. Yes, sir.

Q. Then why did you still prosecute the case of Kelly in spite of that information, if it was sufficient to influence your action since the affirmance of the judgment of the General Term?

A. Because the evidence was presented to the Grand Jury; they found the bill and I presented the bill for trial and arraigned the defendants for trial upon the indictment.

Q. And the demurrer to the indictment was overruled?

A. Yes, sir.

Q. And the General Term have affirmed the conviction?

A. Yes, sir.

Q. And have given a dignity to the case which such an affirmance is calculated to give?

A. Yes, sir.

Q. Now I ask you again: Why, in the twenty months which have followed that affirmance you have not secured the argument of that case in the Court of Appeals?

A. I have no reason other than the one I have given you.

I would state further, Mr. Goodrich, (you asked why I formed that impression): While the parties complaining against the Coney Island Jockey Club have made so many complaints in one day, yet during the three years that I have been in office they have made but one complaint against the Brighton Beach Racing Association.

Q. The Brighton Beach was, however, incorporated before the other?

A. Yes, sir ; it was the first track.

Q. That is the case of Kelly ?

A. Yes, sir.

Q. Were there companion cases to that case ?

A. What do you mean by companion cases ; cases presented at the same time ?

Q. Yes.

A. Yes, sir.

Q. Growing out of the same subject ?

A. Yes, sir.

Q. Have you got a record of those cases there ?

A. Yes, sir ; Michael Murray, Charles Campbell, Charles Hall, Dougal McDougal, George Rose, John Kelly, Albert Cridge, Dutch and others.

Q. Are those contemporaneous cases ?

A. Those are all under the head of convictions, December 1st, 1884. There are others. James Kelly, Charles Murray, Arnold Platt, Jordan, Merkel, Richards, Dunn, Johnson, John Smith and a number of others, all convicted December 1st, 1884.

Q. Does the disposal of those cases depend upon the decision of the Court of Appeals in the Kelly case ?

A. On those particular indictments they do. There have been indictments since that time for other offences.

Q. Now, what case upon that list is pending, with a return filed in the Court of Appeals ?

A. There wouldn't be any except the Kelly case. That case was entitled on the appeal, "James E. Kelly and others," and with an agreement that the others should abide by the result of the decision in the Court of Appeals of that case.

Q. Have you a stipulation to that effect ?

A. Yes, sir.

Q. Then it results that there isn't a single gambling case in which the return to the Court of Appeals is filed?

A. No, sir; that is the only case in which an appeal has been taken to the Court of Appeals.

Q. Well, it is the only case which is now pending in the Court of Appeals; is not that so?

A. Yes, sir.

Q. And there is no return filed in that?

A. No, sir.

Q. That is to say, up until to-day?

A. Yes, sir; up until to-day.

Q. Have you taken any steps, up to this time, to procure the filing of that return?

A. I will.

Q. But have you up to this time?

A. Have I? Yes.

Q. What?

A. I have taken steps to ascertain where the return was, in order that it might be filed.

Q. When did you take those steps?

A. Within four months.

Q. Have you not succeeded in finding it?

A. I know just where it is now, and as soon as you stop, it will be filed and it will be argued in the Court of Appeals; when I understand that I am doing it freely, without any coercion from any outsider.

Q. Do you remember the case of an indictment against John T. McDougal?

A. Very well, sir.

Q. When was that indictment found?

A. If you know the date and will refresh my memory, I can find it much easier on the list. (Examining the list.) July 23, 1884, was the date and the indictment number is 302.

Q. At whose instance was that indictment found; upon whose complaint?

A. It was found, I think, through Britton and Oram.

Q. They are officers connected with the Society for the Suppression of Vice?

A. They are officers who go down on the track for Comstock; I don't know whether they are connected with any society.

Q. William Oram and an officer by the name of Britton!

A. Yes, sir.

Q. What is the name of the person who was arraigned to plead to that indictment?

A. John T. McDougal.

Q. Was the indictment in form against John T. McDougal?

A. Let me explain that there were two indictments.

Q. There were two indictments?

A. Yes; two indictments; one was, I think, against John T. McDougal.

Q. I am talking of the first indictment against John T. McDougal; at that time there was no indictment against Dougal McDougal, was there?

A. Yes, sir; there was. An indictment, June 30, No. 261, was found against Dougal McDougal; July 23, 1884, indictment No. 302 was found against John T. McDougal.

Q. Who was arrested under the indictment against Dougal McDougal?

A. I presume Dougal McDougal was.

Q. Who pleaded to the indictment against Dougal McDougal?

A. I presume Dougal McDougal.

Q. Do you know?

A. Of course I don't know any of these people except Kelly and one or two others whom I have seen in Court; I don't know them any more than any other strangers.

Q. Were you not informed that the person who thus pleaded to that indictment was the wrong person?

A. I was. Let me explain that.

Q. I am going to ask you to explain; I want you to explain a situation which I am informed has attracted considerable attention?

A. No doubt about that; I will explain to your satisfaction. I think you are laboring under a misunderstanding, Mr. Goodrich.

Q. I want your explanation of a situation which I am

informed has attracted some attention as to the arrest of one of the McDougals upon an indictment against the other?

A. There were two McDougals—one of the name of Dougal McDougal and the other of the name of John T. McDougal. When the case was first presented to the Grand Jury, the officers of this society—the men that I have already referred to—said they were able to describe this man, whether he was John T. McDougal or Dougal McDougal—to describe which of the two was the one; whereupon we indicted him as Dougal McDougal alias John T. McDougal or John T. McDougal alias Dougal McDougal, both names being in the same indictment. We not knowing the man relied upon these officers to point him out, whereupon the man gave bail in the office, and this is what I am informed —

Q. They were both indicted under what name?

A. I presume John T. McDougal.

Q. Mr. Ridgway, is there any means by which you can be enabled to state positively on these points?

A. I will tell you how you can get the positive information. You have subpoenaed me to produce the bail bonds. Now, I am not the custodian of bail bonds, but the Court of Sessions have all the bail bonds; and if you send for the clerk of the Court of Sessions he will bring every recognizance. We don't possess them.

Q. You have no such record in your office?

A. No, sir; we don't have them.

Q. Proceed with your explanation?

A. Well, this man gave bail and was arraigned to plead. I am informed that at the time he gave bail the officers were there and identified him as the man described in that indictment by his name of John T. McDougal. I was present when the man pleaded, and, on being arraigned to plead, he pleaded not guilty to the indictment.

Q. Which was that?

A. He answered to the name in the indictment, and I presume he was the man.

Q. Was he the man that came down before?

A. Yes, sir; the same person that gave the bond.

Q. The same person that gave the first or second bond?

A. I don't know any distinction between the first and second bond. All I know is that this man was said to be the defendant. When we arrest a man for burglary and he is called upon to plead, and the police point out the man, that is all we know about it. I don't know the man; I try the man that is pointed out and identified by the police. Well, the day was then fixed for trial in all these cases. Say the trial was for Monday; then a few days before the trial, about Thursday or Friday, counsel came to see me, and said that if we were going to try those cases on Monday we needn't make any arrangements to try the McDougal case. He said: "You can put some other case on; we notify you so that you won't lose your day." "Well," I says, "why?" He says: "Well, Comstock's men have been to the office of McDougal since appearing before the Grand Jury and made an arrangement with him, and they will swear he isn't the man." I said: "If that is the case, his case comes on trial on Monday anyhow." I then told counsel I would move him for trial as the first case on Monday morning. That counsel unfortunately communicated that to the prisoner, who communicated it to Comstock's men undoubtedly, because I received a letter then from their office saying that he was not the man. They evidently made arrangement with him or his deputy to swear that they couldn't identify him. I put him on trial, and I put both of the Comstock's officers on the stand, they being the two witnesses before the Grand Jury upon whose evidence the indictment was found. They both swore that they had never seen the man in their lives before, and when I sought to read the Grand Jury's minutes in evidence, showing that they became adverse witnesses, and showing what they had sworn to before the Grand Jury, of course the objection was made that I could not read the minutes with my own witness, and the Court excluded it, and the public in that way were kept from knowing the real state of the case. And that man was acquitted and he was acquitted because the men who had testified against him before the Grand Jury went before a petty jury in the Court of Ses-

sions and testified they had never seen the man before. That is the reason of the acquittal.

Q And by the two men you refer to Britton and Oram ?

A. Yes, sir ; so much, Mr. Goodrich, has been said about this that I should prefer that you would see Judge Moore and see the Clerk of the Court of Sessions, and have some five or six people who were present when the man whom I put on trial was identified as the man named in the indictment, and if you will put them here and put them under oath you will probably set at rest all this question whether the right or wrong man was placed on trial.

The hour of adjournment having arrived, Mr. Parsons said :

MR. PARSONS : Q. Before acquiescing in the adjournment, with the permission of the Committee and Mr. Ridgway, I should like to ask some questions to clear up a misunderstanding on my part about the Kelly case.

THE WITNESS : Certainly, I have no objections.

BY MR. PARSONS : Q. Is this the situation of the Kelly case : On June 8, 1885, the General Term of the Supreme Court, in the Second Department sustained the decision of the Court of Sessions overruling the demurrer to the indictment ?

A. I will answer the question, yes, except as to the date, and that only because I don't know as to the date.

Q. As the case then stood was there anything in the way of your moving for sentence except such an arrangement as had been made between you and the counsel for the prisoner ?

A. No, sir ; none whatever ; unless as to the stay to the General Term ; if that stay ended, there was nothing at the time except the word of counsel, Mr. Beecher and Mr. Beecher and Mr. Dewitt and a number of the gentlemen and myself who were engaged one way or the other in the case.

Q. I want to make it clear if the fact be so, that when the General Term announced its decision, and the order upon

that decision was entered, which we assume to have been on the 8th of June, 1885, there was nothing in the way of a motion for sentence except the arrangement which you say had been made and which you have stated that you felt a question about?

A. Yes, sir.

Q. Is that so?

A. Yes. That is, that the stay, if it could be so considered as a stay after judgment in the General Term—but if that stay ended on the determination by the General Term of that question, then there was nothing in the way but an arrangement between two lawyers.

Q. The next fact that I wish to understand clearly about is this: whether any arrangement had been made between you and any one, or whether any order of Court had been made which prevented the case coming to the Court of Appeals at the earliest possible moment?

A. No: if the judgment of the General Term had been filed by the clerk of the General Term with the clerk of the Court of Sessions, he (the clerk of the Sessions), having received a notice on appeal from the judgment would immediately have made up the return and sent it to the Court of Appeals.

MR. PARSONS: Mr. Ridgway, if you will notice my question which is carefully put to you and carefully prepared so as to avoid extrinsic matters entirely, you will see that your answer is outside of the question.

(The question was read by the stenographer as follows:)

Q. The next fact I wish to understand clearly about is whether any arrangement had been made between you and any one, or whether any order of Court had been made which prevented the case coming to the Court of Appeals at the earliest possible moment?

A. No, sir.

Q. Is it the fact that by arrangement made with you the Kelly case had been made a test case for all cases involving the same evidence?

A. That same question; yes, sir.

Q. Was not then the practical result this, that until the

decision of the Court of Appeals in the Kelly case there could be no successful attempt to stop that offense in this court!

A. Yes; because we had other indictments upon which convictions might possibly be had.

Q. But how could there be convictions upon other indictments which would result in stopping pool selling if you had made a test case and all these other cases were to wait its result?

A. Because, Mr. Parsons, after that the Coney Island Jockey Club and the Brighton Beach Racing Association abandoned the system under which the convictions were had and adopted a new system, for which they were indicted, and we tried those cases and were two weeks engaged in the trial of them, and in those cases I had associated with me Mr. Beecher, the counsel of the Society for the Prevention of Vice, and gave him entire charge of the selection of the jury, laying out the theory upon which he thought the case ought to be presented; he did attend with me; the result being a failure to convict.

Q. I ask you, outside of the direct line of inquiry, whether any other indictments for pool selling were tried; I mean any other than the Kelly indictment?

A. O, yes, sir; we contended that system—

MR. PARSONS: Please don't tell me what you contended, but answer my question?

THE WITNESS: But you asked me about pool selling.

MR. PARSONS: You and I cannot both talk at the same time. Won't you permit me to put the questions and you give me the answer?

THE WITNESS: You asked me a question, and I propose to answer it.

Q. The question that I ask you is, whether there had been tried any other indictments for pool selling; that is all?

A. I can say registering and recording of bets.

Q. I refer to the same offense as expressed in the indictment in the Kelly case?

A. I will class the Duryea system as pool selling, and say yes.

Q. Was there a distinct offense which was the subject of the Kelly indictment?

A. A distinct offense?

Q. Yes, sir?

A. Yes, sir; there was.

Q. Had there been tried any other indictment for that distinct offense?

A. Not a trial; no, sir.

Q. I understand you to have said that the Kelly case was selected as a test case; is not that so?

A. Yes; that is for the offense committed on that particular day.

Q. In making that a test case, did you not necessarily sustain all the indictments for similar cases until the Court of Appeals should tell you what was the law of the Kelly case?

A. No; we entered judgments of conviction in all of them.

Q. And then have acquiesced in a stay of those convictions?

A. Yes; just simply held them in abeyance.

Q. Now, was not that only another mode of tying up indictments, or the final determination of indictments, pending the final decision by the Court of Appeals?

A. We thought if we got to the Court of Appeals we would get a determination of the law which would hold all of these cases, and that we could do it as well by a hearing upon a test case. I don't understand what you mean by tying up cases.

MR. PARSONS: But that is not an answer to my question.

THE WITNESS: I think it is.

MR. PARSONS: Permit me to differ with you.

THE WITNESS: But permit me to differ with you; I think it is.

Q. What I wish to know is whether obtaining convictions in these other cases and then awaiting the decision of the

Court of Appeals in this Kelly case was not practically tying up proceedings in all these other cases?

A. I must explain that a stay in the Kelly case would have of necessity created a stay in the other cases; I only want to explain it because of the form of the question where you use the term 'tying up.'

Q. Now, Mr. Ridgway, is it the fact that criminal cases have a preference upon all calendars in all courts?

A. Upon all calendars.

Q. So that the appeal to the Court of Appeals in the Kelly case could be presented and the argument could be brought on before the Court of Appeals at any time?

A. It could be moved to the head of the calendar.

Q. Now, sir, I understand the two reasons which you have assigned, or the three reasons which you have assigned for not proceeding with the Kelly indictment in the Court of Appeals are: first, public clamor and public proceedings which you thought took away your free agency; secondly, a mistake or inadvertent error in not having the decision of the General Term sent to the Sessions in Brooklyn; and third, the fact that you deemed it more important to try robbery and murder and other important cases than to go to the Court of Appeals for the trial of an indictment for gambling; are those the three reasons?

A. Yes, sir.

Q. Well, if the third reason is a sufficient reason, that reason will last forever, will it not?

A. What?

Q. A necessity of giving preference to robbery and murder and other such important cases?

A. Oh, no, it wouldn't last forever.

Q. Why would it not last forever; do you suppose a time will ever come within the jurisdiction of the District Attorney of Kings County when he will not have robbery, murder and other such important cases to try?

A. No, I do not.

MR. PARSONS: Ah, that answers one question.

THE WITNESS: And he will also have opportunities to

go to the Court of Appeals to argue other cases, and he will couple those cases with these, and argue all together.

Q. That leads to this question : Have you been to the Court of Appeals since June 1885, for any cause ?

A. No, sir ; I don't think I have. I have no recollection of being in the Court of Appeals since 1885. We are pretty free from crime here, Mr. Parsons. We don't have enough to take us to the Court of Appeals. We have more or less trials in the County, that end right here in the County.

Q. When I say have you not been in the Court of Appeals since June, 1885, what I wish to know is whether no appeal from Kings County has been argued before the Court of Appeals since that period ?

A. Mr. Parsons, I don't think there has. I don't think there has been a Court of Appeals case ?

Q. If you are equally successful in keeping out of the Court of Appeals in the time to come as you have been since June, 1885, that will lead to very great delay in bringing on an argument there upon this Kelly case.

A. No ; no such delay as that.

Q. Speaking frankly, Mr. Ridgway, do you think that the reason about which I am now examining you either explains or justifies this delay ?

A. I think it does, fully.

Q. You think it does ?

A. Fully ; yes, sir.

Q. The necessity on your part of giving your attention to robbery, arson, murder and other more important cases ?

A. Yes, sir.

Q. A cause then which is to continue indefinitely in the future ?

A. Oh, no ; that is near, we think.

Q. When is the time to come ?

A. I cannot tell when crime will cease altogether.

Q. I was not about to ask that ; I know you cannot tell that ; I ask you when is the time to come ?

A. Crime may be very near at an end, but I don't know. I am waiting for better light.

Q. But perhaps you can inform the Committee when you think that that cause will be out of the way so as to admit an argument in the Court of Appeals of this Kelly indictment : when you think, is the question ?

A. I presume that the Kelly indictment will be argued very soon in the Court of Appeals. I cannot give you a day certain.

Q. Do you mean that there will be a cessation of murder and robbery cases ?

A. No, sir ; that is where we draw the line.

Q. That is where I draw the line, but I thought you did not ; now come to the second reason, and the first in the order in which I mentioned them ; the first reason was public clamor and proceedings before the Governor which took away your free agency ?

A. Yes, sir.

Q. Are those proceeding pending at the present time ?

A. They are.

Q. They may be pending for a long time, may they not ?

A. I don't know what the Governor will do. I have every confidence in his good judgment and common sense.

Q. This is a proceeding against you personally—which affects you personally ?

A. Yes, sir ; this is a proceeding instituted by the man I have referred to. It has simply been a personal matter.

MR. PARSONS : Have you any objection to oblige me in one little matter, and that is not to say anything about Mr. Comstock ?

THE WITNESS : I haven't mentioned his name.

MR. PARSONS : I propose, Mr. Ridgway, to take the most extraordinary care never to refer to him on this examination ?

THE WITNESS : I never did. I am glad that somebody agrees with me in regard to Mr. Comstock.

MR. PARSONS : But I don't agree with you. I differ with you essentially and fundamentally. I am a firm believer in Mr. Comstock and in his society, and aid both.

Q. What I wish to call your attention to now, sir, is that

the gentleman with whom we are concerned at present is the District Attorney of Kings County, I think, and not Mr. Comstock ; therefore please leave him out of the question. Coming now to the cause assigned by you of proceedings pending against you before the Governor, and public clamor : do they affect the administration of the duties which devolve upon you as the public prosecutor of this county ?

A. No, sir.

Q. Is it not then the fact that you are permitting proceedings which concern you personally to stand in the way of your public duty ?

A. No, sir.

Q. You think not ?

A. No, sir.

Q. Well, we will pass that, then ; and now, coming to the only other remaining reason assigned by you, I understand that to have been the misplacing of the order of the General Term, filed, as we presume, on the 8th of June, 1885---

THE WITNESS : I don't know the date, Mr. Parsons.

MR. PARSONS : We assume, subject to correction, that it is June 8, 1885.

Q. Now, Mr. Ridgway, when did you first learn that there was any such impediment to having this cause heard in the Court of Appeals ?

A. When I sent up to the Court of Appeals to ask whether the return was filed.

Q. When was that ?

A. I cannot give you the date.

Q. Was it not— ?

A. Oh, it was some time ago ; it wasn't recently.

Q. Upon this subject, Mr. Ridgway, I wish to ascertain the time, if I can ; and, if not, then to ascertain your idea of the time when you first made that discovery ?

A. Well, I will let you know at the next session when you meet. I could examine and find out.

Q. How was it brought to your attention ?

A. Why, by going into the Clerk's Office and asking

whether the return had been sent to the Court of Appeals; and upon the explanation being made to me that they did not have the return of the General Term, we sent to the Clerk of the Court in Albany to see whether the Clerk at Poughkeepsie had made the return, thinking that the notice of appeal may have led to his so doing.

Q. And what is your present recollection of the interval since then; not holding you to accuracy about the date, but to know how the thing runs in your mind?

A. I would be glad to approximate if I could. Probably I can look at memoranda that will refresh my recollection; perhaps in connection with other cases about that time.

Q. Do you think it was as long as a year ago?

A. I cannot tell. I will be happy to give you the information on the next day's hearing.

Q. I will put my question to you in this form: how long would it take a subordinate of your office to rectify that difficulty and have the record in the Court of Appeals?

A. I couldn't tell you.

Q. Could it not be done in three days?

A. I suppose in a week it could be.

Q. In a week; how many weeks is it that that impediment has delayed the argument of this case in the Court of Appeals?

A. I don't know.

Q. Well, it is a great many weeks, is it not?

A. It is some weeks, of course. It is a matter of computation of the time of its affirmance since the General Term filed it, up to the present.

MR. PARSONS: I understand that it is desired that you shall be examined again on Monday, Mr. Ridgway?

THE WITNESS: Yes, sir; I will be here.

The table prepared by Mr. District Attorney Ridgway, showing indictments and their disposition, is as follows:

List of all indictments found against Gamblers since May 1st, 1881, in the Kings County Court of Sessions, together with the date of indictment, and a report of what action has been taken on each.

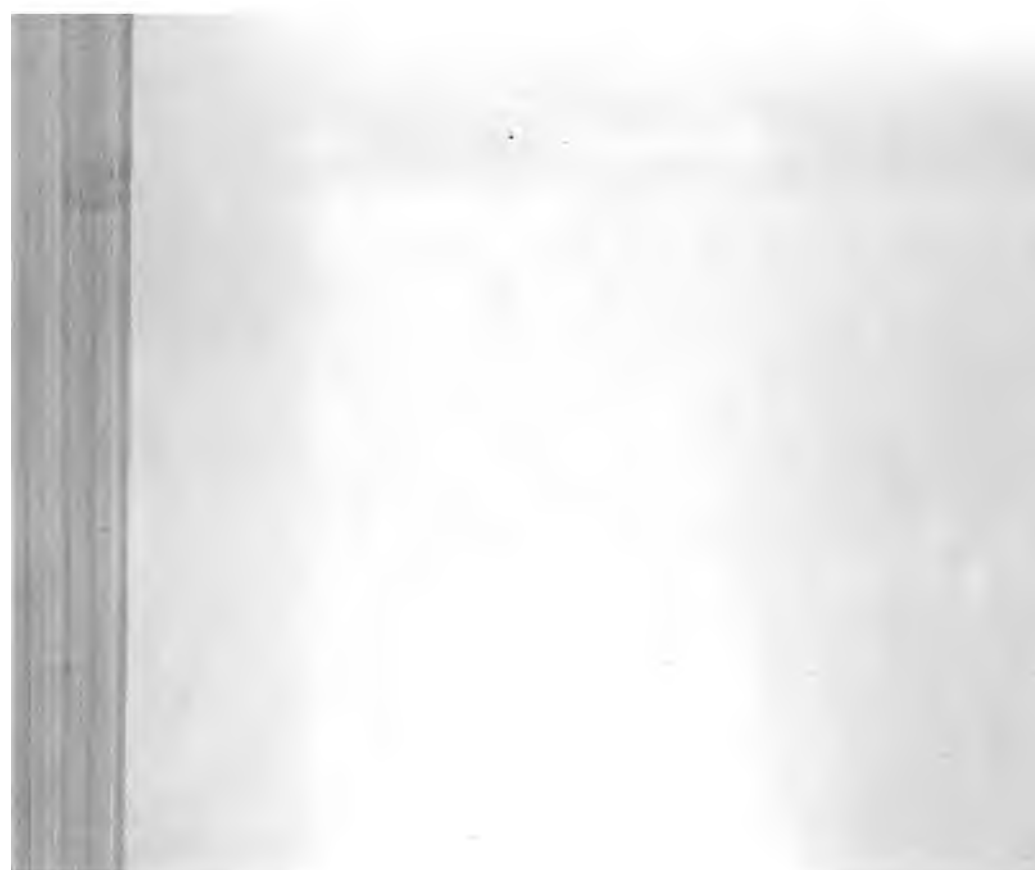
DATE.	No.	NAME.	OFFENCE.	DISPOSITION.
June 10, 1881,	4885	Francis Speight	Policy	Dis. Dec. 31, 1883
" 21, "	4910	William Lauer	"	" May 4, 1883
" "	4911	Edward R. McEvoy	"	" Dec. 29, 1883
" "	4912	Andrew Nelson	"	Nolle June 23, 1881
" "	4913	William Stone	"	Fined \$25, Dec. 30, 1882
" " "	4914	Thomas Laird	"	Dis. Dec. 26, 1883
" " "	4915	John Schubert	"	" " 31, "
" " "	4916	Christian Bauth	"	" " 26, "
" " "	4917	Simeon Cryer	"	" " 31, "
" " "	4918	Henry De LaMotte	"	" " 31, "
" " "	4919	Charles Strange	"	" " 31, "
" " "	4920	Andrew McClellan	"	" " 31, "
" " "	4921	John L. Walker	"	" " 22, "
" " "	4922	Charles W. Smith	"	" " 31, "
" " "	4923	James G. Roe	"	" " 29, "
" " "	4928	Andrew McClelland	"	" " 31, "
" " "	4928	Charles W. Smith	"	" " 31, "
July 15, "	4936	Edward Stubman	"	" " 29, "
Sep. 27, "	5017	William Lauer	"	" May 2, 1883
Oct. 10, "	5039	William Rose	"	" Dec. 29, 1883
" " "	5052	Charles Stange	"	" " 31, "
" " "	5052	alias Charles Steiner	"	" " " "
" " "	5053	Henry De LaMotte	"	" " " "
" " "	5054	Abraham De LaMotte	"	" " " "
" " "	5055	Thomas Laird	"	" " 26, "
" " "	5056	Simeon Cryer	"	" " 31, "
" " "	5057	William Steiner	"	" " 31, "
" " "	5058	William Steiner	"	" " 31, "
" " "	5059	Thomas Laird	"	" " 26, "
" " "	5060	Michael Carney	"	" " 22, "
" " "	5061	Michael Carney	"	" " 22, "
" " "	5062	John Walker	"	Fined \$50, Feb. 14, 1884
" " "	5063	Abraham De LaMotte	"	Dis. Dec. 31, 1883
" " "	5064	William Lauer	"	" May 4, 1883
Oct. 28, "	5098	John McEvoy	"	" Dec. 29, 1883
" " "	5099	Charles W. Smith	"	" " 31, "
" " "	6000	Simeon Cryer	"	" " " "
" " "	6001	William Stone	"	" " 29, "
" " "	6002	Simeon Cryer	"	" " 31, "
Nov. 17, "	6006	Jacob Conrady	"	" " 29, "
" 22, "	6022	John Funk	"	" " 22, "
" " "	6023	John Shelter	"	" " 31, "
Dec. 9, "	6069	John Mangan	"	" " 22, "
Jan. 9, 1882,	6096	William Rose	"	" " 29, "

DATE.	No.	NAME.	OFFENCE.	DISPOSITION.
Jan. 9, 1882,	6107	Carl Fuller	Policy	Dis. Dec. 22, "
Oct. 9, "	6458	Elizabeth Kepple	"	" " 29, "
" " "	6477	Peter Vanderhoff	"	" " " "
" " "	6477	Catherine Vanderhoff	"	" " " "
Oct. 17, "	6485	Peter J. Meany	Pool selling	
" " "	6485	William R. Jones	"	
Mch. 14, 1883,	6672	John Cummings	Policy	" Oct. 15, 1883
June 13, "	6735	Abraham De LaMotte	"	
" " "	6736	Henry De LaMotte	"	
July 9, "	6817	Peter J. Meany	Pool selling	
Sep. 26, "	6900	William Jackson	"	Trans. to O & T Oct 9, '86
"	6900	Timothy Perry	"	"
"	6900	Edward Howard	"	"
Sep. 28, 1883,	6956	Walter Foster	Policy,	Dis. Dec. 29, 1883
"	6957	Andrew J. Philips	"	"
Sep. 21, 1893,	6960	James E. Brown	Pool selling	Trans. to O & T Oct. 9, '86
"	"	Richard Roe	"	"
"	"	Patrick Roe	"	"
"	"	Daniel Doe	"	"
"	"	Garreson Morris	"	"
"	"	Richard Fortune	"	"
"	"	James Dunphy	"	"
"	"	Patrick Loe	"	"
"	"	Michael Loe	"	"
"	"	Albert Burtis	"	"
"	"	Michael Huber	"	"
"	"	James Doe	"	"
"	"	John Finnegan	"	"
"	"	Richard Fortune	"	"
"	"	Michael Huber	"	"
"	"	Garrison Morris	"	"
"	"	Michael Loe	"	"
"	"	Patrick Loe	"	"
"	"	Michael Huber	"	"
"	"	John Roe	"	"
"	"	William Boyle	"	"
"	"	James Dunphy	"	"
"	"	Thomas Lennon	"	"
"	"	John Doe	"	"
"	"	Robert Hoe	"	"
"	"	Richard Hoe	"	"
"	"	Patrick Roe	"	"
"	"	Patrick Doe	"	"
"	"	James E. Brown	"	"
"	"	Garrison Morris	"	"
"	"	James Dunphy	"	"
"	"	Richard Fortune	"	"
"	"	John Roe	"	"
"	6962	Jane A. Madigan	"	"

DATE.	No.	NAME.	OFFENCE.	DISPOSITION.
Sep. 28, 1883.	"	James F. Quigley	Pool selling Trans. to O & T	Oct. 9, '8
"	"	James Roe	"	"
"	"	Charles Roe	"	"
Oct. 31, 1883,	6997	William Vincent	Lottery	
"	7027	James E. Ryan	Policy	Dis. Dec. 29, 188
Feb. 23, 1884,	52	Theophilus Gilman	Gambling	
Mch. 12, "	75	Kate Fitzleman	Policy	
"	75	Carl Fuller	"	
Apr. 21, "	124	Hugh O'Donnell	Gambling	Convic. Feb. 19, '8
"	124	William Hastings	"	"
"	124	Charles Wilson	"	"
June 30, 1884,	260	Michael Murray	Pool selling	Convicted Dec. 1, 188
"	"	Charles Kimball	"	"
"	"	George Hall	"	"
"	261	Dougal McDougal	"	"
"	"	George Rose	"	"
"	"	John Kelly	"	"
"	253	Albert Cridge	"	"
"	"	Peter Cridge	"	"
"	253	Fred Dutch	"	"
"	262	James E. Kelly	"	"
"	"	Thomas Murray	"	"
"	"	John S. Stow	"	"
"	"	A. Fuller	"	"
"	263	Aaron Platt	"	"
"	"	H. Schneider	"	"
"	"	Mark Jordan	"	"
"	264	James Dunn	"	"
"	"	Michael Kelly	"	"
"	265	Richard Rogers	"	"
"	"	James Dunn	"	"
"	266	David Johnson	"	"
"	"	John Smith	"	"
"	"	Richard Baker	"	"
July 23, 1884	298	F. K. Bradley	"	
"	"	T. J. Meehan	"	
"	299	Daniel Gleason	"	
"	300	John White	"	
"	"	Frank Snyder	"	Tried Dec. 15, 1884, acq't
"	"	Martin Jordan	"	
"	301	William Warring	"	
"	"	William McNamara	"	
"	302	James Fry	"	
"	"	Frank Rodman	"	
"	"	John T. McDougal	"	Tried Dec. 15, 1884, acq't
"	303	Daniel Wartzfelder	"	
"	"	James B. Varley	"	

The indictments presented July 23, 1884, were made to cover mismomers in presentment of June 30, 1884. They are the same defendants, and the offense charged is the same as charged in presentment of June 30, 1884.

DATE.	NO.	NAME.	OFFENCE.	DISPOSITION.
Oct. 24, 1884.	453	John Ricker	Policy	Convic. Feb. 19, 1885
"	469	Henry Place	"	"
Jan. 14, 1885,	609	Thomas H. Glass	Pool selling	"
Sentenced to Kings Co. Penitentiary and \$500.00 fine.				
Jan. 14, 1885,	609	William F. Reardon	Pool selling	Conv't Feb. 19, '85
Feb. 9, "	661	Paul Bauer	"	" 26, '85
"	"	George Miller	"	" "
Feb. 13, 1885,	671	John B. Corrigan	"	" 20, '85
"	674	William Peters	Gambling	" 24, '85
Mch. 30, 1885,	720	John Herbold	Policy	
April 2, "	731	John E. Cummings	"	
May 1, "	775	William Rose	"	
June 23, "	843	Michael Murray	Pool selling	
"	"	John Doe	"	Not arrested
"	"	Richard Roe	"	"
June 23, 1885,	844	Edward Ross	"	"
"	"	John Doe	"	"
"	"	Richard Roe	"	"
"	"	Thomas Roe	"	"
alias Chas. Clifton.				
"	845	Thomas Brown	"	"
"	"	Richard Hoe	"	"
843 to 845 transferred to O. & T. Oct. 9, 1886.				
July 21, 1885,	864	George H. Engeman	} See Brighton Beach Racing Association. Transferred to Oyer and Terminer Oct. 9, 1886. Employees at Brighton Beach. Transferred to Oyer and Terminer Oct. 9, 1886.	
"	"	William A. Engeman		
"	"	James McGowan		
"	"	A. H. Battersby		
"	"	John Scofield		
"	"	E. Smith		
"	"	J. Kennedy		
"	"	John Starins		
"	"	John Hallings		
"	"	John Baker		
"	"	John Strong		
"	"	John McKenna		
"	"	John Voorhees		
"	"	John Daly		
"	"	John Flynn		
Oct. 15, 1885.	983	William Rose	Policy	
Dec. 1, 1885,	1044	John Stack	"	
May 21, 1886,	1318	George H. Engeman	Pool selling	Trans to O & T Oct '86
"	1319	Charles A. Hoff	"	"
June 22, 1886,	1319	Brighton Beach R. A.	"	"
Tried Sep 16 & 17, '86. Jury disagreed.				
"	1372	Coney Island Jockey Club	"	"
[Tried Sept. 13, 14 & 15. Jury disagreed and retried Sept. 23, '86. Jury disagreed.]				
June 22, 1886,	1372	David Johnson	Pool selling	Trans to O & T, Oct 9, '86
"	"	John Doe	"	" Not arrested
"	1373	Richard Roe	"	"
"	1347	J. Cotton	"	"
"	"	Thomas Hoe	"	"



COMMON COUNCIL CHAMBER,

BROOKLYN, N. Y.,

March 21, 1887.

et pursuant to adjournment, all the parties being
ent as stated heretofore, excepting MR. GREENE of the
mittee.

fter the Chairman called to order, the Honorable Seth
; Ex-Mayor of Brooklyn, addressed the Committee as
ows :

R. Low: Mr. Chairman, while in Ithaca on Friday last
rected a letter to yourself, as you are aware, express-
a desire to have the opportunity of correcting what
ned to me be, to a misstatement in the testimony of his
or, the Mayor, on Monday last, touching the govern-
t of the city, in particular the Telephone Company,
ng my administration. In response to that letter I
ived a memorandum from the counsel to the Commit-
as follows :

“The counsel think that if Mayor Low wishes to
make an explanation, it is for him to appear in per-
son and ask it. All the members of the Committee
and the counsel will be glad to extend this courtesy.
They think it is the right of any official whose
names are mentioned in a way that calls for explan-
ation. Monday next at ten A. M., will be a suit-
able time.”

in accordance with that minute I am here, and ask the
ilege of making the explanation. I don't suppose for
moment the Mayor intended to be inaccurate in his
ement, but I believe he has been misinformed. I should
to make clear the relations that existed between the
inistration during my time and the Telephone Com-
y.

HAIRMAN BACON : The Committee take pleasure, Mr.

Low, in extending to you any opportunity that you wish. You may explain any matters that you desire to call the attention of the Committee to. Will you come forward and be sworn?

Seth Low was thereupon duly sworn :

THE WITNESS : Is it your pleasure that I should read this statement, Mr. Chairman ?

CHAIRMAN BACON : As you please, Mr. Low.
(The witness then read the following statement :)

STATEMENT OF HON. SETH LOW.

BROOKLYN, March 21, 1887.

To the Honorable the Investigating Committee of the Assembly.

GENTLEMEN :

In one of the published accounts of your session on Monday last, the following question, addressed to Mayor Whitney, and his answer, appear :

“ Q. What is your understanding of the arrangement under which the wires of private corporations, either telephone or electric light, are placed on the poles of the City of Brooklyn ?

“ A. I could only refer you to the contract made by the city authorities of Brooklyn as they then were ; that was previous to me, but it has been carried out under my administration.”

[NOTE.—This citation of testimony is from a newspaper report, and differs from the official report. See record, p. 330.—J. H. F.]

This is repeating in distinct terms an inaccuracy which was implied in the Mayor's proclamation to the people of Brooklyn, issued at the time your Committee was about to be appointed by the Assembly. At that stage I did not care to take part in the controversy. It seems to me desirable at the present time to lay the facts before your Committee so far as they touch my own administration.

In the minutes of the Board of Aldermen for Nov. 23,

1885, may be found a communication from Commissioner Poillon, then at the head of the Fire Department, reading as follows :

HEADQUARTERS BROOKLYN FIRE DEPARTMENT,
Jay Street. near Willoughby,
BROOKLYN, November 23, 1885.

To the Honorable the Common Council :

GENTLEMEN :

At a conference of the Board of Commissioners of the Electric Sub-ways, the officers of the New York and New Jersey Telephone Company and myself, as Commissioner of this Department, held on Tuesday, the 10th inst., it was deemed for the best interest of the city to recommend the issue of a joint permit to the Fire Department and the New York and New Jersey Telephone Company for the erection of telegraph poles on certain specified streets, for the joint use of said Department and said Company. Upon such recommendation the permit in question was issued in strict compliance with the provisions of the Underground Telegraph Law of 1885, and of existing municipal ordinances. The anticipated effect of the conditions under which said permit was issued being apparently misunderstood, it has been considered advisable by me to suspend all operations thereunder and to refer the whole matter to your honorable body, with the request that it be referred by you to the proper committee, that a full hearing may be had and the merits of the case be carefully inquired into at an early date, so that the desired work may be performed without unnecessary delay. Pending your action in the premises, that the interests of the city in the extension of its fire alarm system may not be prejudiced, such poles as are required for the immediate service of this Department will be erected at the expense of the latter, to the extent permitted by the appropriation for Fire Department purposes.

Very respectfully,

RICHARD H. POILLON,
Commissioner.

The Common Council took no action upon this recommendation.

In 1882 and until the passage of this underground wire law of 1884, an arrangement substantially similar to this suggested one was found to work to the advantage of the City. The spirit in which it was administered is shown by the following communication to the Board of Aldermen, to be found in the Minutes of June 2, 1884. There was at all times the effort to obtain for the City the full equivalent of what was given by it.

MAYOR'S OFFICE, CITY HALL,

BROOKLYN, June 2, 1884.

To the Honorable the Common Council :

Gentlemen :

My attention was drawn to the fact a few weeks since that the City is paying a considerable sum for telephone service.

There are in the Fire Department 18 leased instruments.

"	Police	"	19	"
"	Health	"	6	"

Say 43 instruments,

for which we pay at the rate of \$20 per year, say \$860.

We also have in the different City Departments 23 exchange connections, at \$90 each, \$2,070 ; representing an annual payment of \$2,930.

I immediately placed myself in communication with the officers of the New York and New Jersey Telephone Company, and have now the pleasure of laying before you the following proposition from them.

In return for the exclusive privilege of using the poles of the Fire and Police Departments so far as the City itself does not wish to use them, this company will undertake :

1st.—To keep said poles in repair.

2d.—To keep all the City wires thereon in good order.

3d.—To give to the City, free of charge, the use of tele-

phones to the extent of one hundred instruments, for which we now pay \$20 a piece per annum and connections with the exchange up to 35 in number, such as we now pay \$90 a piece for. This is the equivalent in telephone service of \$5,150 per annum.

4th.—In case the city shall need more than 35 exchange connections, the price to be \$60 for each connection beyond this limit, instead of \$90, and all materials in connection with leased instruments to be furnished at cost.

It seems to me it will be in the interest of the city if your Honorable Body will authorize such an arrangement to be made.

First—Because it deprives the city of no use of our poles that we now make, or may at any time wish to make ourselves.

Second—Because so far as these poles are utilized by the Telephone Company the city is spared the multiplication of poles in the streets.

Third—Because it will give us, without cost, a telephone service for which we should otherwise have to pay a rental of \$5150 a year.

Respectfully,
SETH Low,
Mayor.

The passage of the first underground Wire Law soon after prevented action upon this suggestion.

For a detailed statement of the whole connections of the Fire Department with the Telephone Company from 1882–1885, I refer to the report of the Fire Commissioner for 1885. An examination of this report will show :

First, that after the passage of this Underground Wire Law, in 1884, the only attempt made to extend the Fire Telegraph facilities through the co-operation of the Telephone Company, resulted in the poles being ordered down by the Mayor.

Second, that in 1885, the operations of the Fire Department, in all ways, resulted in the erection of nine additional poles and the taking down of thirty-one old ones, a net reduction of twenty-two poles for the year.

I have pointed out already that no arrangement whatever with the Telephone Company was in force at the end of 1885.

It is true that an arrangement substantially on the old lines, suggested by the Fire Commissioner, was under consideration by the Common Council.

It is also true that this suggested arrangement had been negatived by myself.

No arrangement of any kind existed in my time between the Fire Department and the Electric Light Company.

I do not say now that the present administration may not have had good reason for any arrangement which they saw fit to make. I have not studied into that matter and do not express an opinion upon it. I object simply to having attributed to me by them work which they alone are responsible for. I appreciate the implied compliment of their action in assuming that to show similar conduct during my term to that for which they are blamed is at once to disarm criticism ; but an important detail in this method of self-justification is to have the facts sustain the argument.

Respectfully,
SETH LOW.

(At the conclusion of the reading of his statement Mr. Low said :)

THE WITNESS : I am at the service of the Committee.

CHAIRMAN BACON : If counsel have any questions to put to Mr. Low they have now the opportunity.

MR. PARSONS : I think we have not ; certainly not at the present.

CHAIRMAN BACON : That is all then, Mr. Low, and we thank you.

Alanson Treadwell, being duly sworn and examined, testifies as follows :

BY MR. GOODRICH : Q. Are you one of the firm of Treadwell, Slote & Co. in New York ?

A. Yes, sir.

Q. Have you been subpoenaed to attend this hearing ?

A. Yes, sir.

Q. In the summer, where do you live ?

A. At Sheepshead Bay.

Q. And ride to and from the city during the summer ?

A. Yes, sir.

Q. I have been informed that on one occasion you met a Mr. Battersby, when a peculiar incident occurred. Is that true ?

A. Yes, sir ; I met him frequently. I don't know that it was a peculiar incident.

Q. Who was Mr. Battersby to whom I have referred ; do you know ?

A. I believe his name is Albert. Al we call him.

Q. Are you somewhat intimately acquainted with him ?

A. Yes, sir. I know him.

Q. What office does he hold in connection with one of the racing clubs ?

A. Well, he is said to be Secretary ; I don't know positively ; or Treasurer of the Coney Island Jockey Club at Coney Island.

Q. Of the Coney Island Jockey Club ?

A. No, the Sheepshead Bay ; I am not familiar with the races.

Q. That was the Sheepshead Bay course ?

A. No, the Coney Island—that is, the Brighton Beach course. I am not familiar with the race course.

Q. You are not in the habit of visiting the tracks, I take it ?

A. No, sir.

Q. Will you state a conversation which you had with Mr. Battersby in which a check was shown you ?

A. Well, I remember something of an incident of that kind. I frequently met Mr. Battersby in the summer time,

and I met Mr. Battersby on the Brighton Beach road at that time. We got off and took the horse car at the station at the Park; that was the Flatbush Avenue line. It was an open car, and the car was well filled.

We got into a pleasant argument about the matter of legalizing poolselling. I believe there was a bill in Albany at the time, or had been, and of course I was not favorable to a law which would legalize anything of that kind. We had a pleasant talk about it, and during the conversation he showed me a check.

Q. Whose check was it?

A. That is something I don't know, sir.

Q. What was the amount of the check?

A. Well, I think I read on the check \$1400. I think he said also it was \$1400.

Q. What did he say he was going to do with that check, or what was the object for which the check was drawn?

A. Well, he said to me as he took the check out of the book; he said: "Which is the worst." I will give you the whole story just as I got it.

Q. Well, I want it.

A. "Which is the worst; to legalize poolselling or to pay blackmail?"

Q. "Or to pay blackmail?"

A. Yes, sir; he says: "I am going to Brooklyn now to pay this check."

Q. He didn't say to whom he was going to pay it?

A. No, sir.

Q. Did he say that this was blackmail to persons who had threatened to stop poolselling?

A. No, sir.

Q. Did you derive the impression that this was to be paid to some public official of this city or county?

A. Well, I suppose I had that impression. That seems to be a general impression, that some one is taking care of poolselling.

MR GOODRICH: That is all.

Albert W. Sanbern, being duly sworn and examined as a witness, testifies as follows :

BY MR. GOODRICH : Q. Mr. Sanborn, you are a resident of the City of Brooklyn and a merchant doing business in the City of New York ?

A. Yes, sir.

Q. Were you a member of the Grand Jury of this County which met in October last ?

A. Yes, sir.

Q. Was the subject of pool selling and gambling in this County a subject of investigation before the Grand Jury ?

A. Yes, sir.

Q. Was there occasion to call Mr. District Attorney Ridgway before your body for advice ?

A. Well, yes, sir ; he was there pretty near all the time, in the line of his duty.

Q. In your presence did he give you any advice as to what would be the effect upon the Sheriff of this County of an indictment for failure to stop public gambling on the race tracks ?

A. He was asked that question.

Q. What was the question asked him ?

A. He was asked what would be the immediate effect of an indictment found against the Sheriff for failure in stopping the pool selling at Coney Island, after being instructed to do so by the Grand Jury.

Q. I want you to be specific in your statement of that question, as to whether it was what effect an indictment, or what effect a conviction would have upon the office of Sheriff ?

A. No, it was indictment ; that was the question.

Q. Are you positive about that ?

A. I am.

Q. What was the advice given by the District Attorney upon that question ?

MR. RIDGWAY (*sotto voce* to the witness): You have no right to give the secrets of Grand Jury.

THE WITNESS : They didn't ask me anything they had

no right to do, Mr. Ridgway. I would like to have that decided, of course.

(The question was then read by the Stenographer, as follows :)

Q. What was the advice given by the District Attorney upon that question ?

A. Now, Mr. Goodrich, if there is going to be any question about my having a right answer the question; I would like to have it settled before I answer.

MR. GOODRICH : I don't see any question raised to your answering the question. If anybody objects, I should like to have it appear upon the record who it is that makes the objection.

THE WITNESS : I heard the conversation here.

MR. GOODRICH : Well, please don't specify anything you happened to hear. A conversation with you ?

THE WITNESS : No, sir; but I overheard something just now.

MR. GOODRICH : Please don't speak of any conversation which you happened to hear by reason of your proximity to the persons engaged in the conversation.

THE WITNESS : I am perfectly willing to tell anything I have a right to do.

MR. GOODRICH : So far as my opinion is concerned, I wouldn't ask you a question unless I deemed it to be perfectly right ; but I have made some investigation of the subject which justifies me in propounding the question.

(The witness makes no reply.)

MR. GOODRICH : Mr. Shepard suggests that I should say to you that, after a consideration of the subject by the counsel to the Committee, they are unanimously of the opinion that the question is not one which you are forbidden to answer. I will ask you, without asking for the particulars of the conversation—

(At this point, a short pause in the discussion occurred, and Mr. Goodrich said :)

MR. GOODWICH : I will not ask you to go further on this subject. Please say nothing about it in response to anything I have said.

MR. CUTLER : I desire to say this: I think you shouldn't characterize it as a conversation; if you characterize it at all, it should be as a statement made by one person to another.

MR. GOODRICH : Unless the Committee desire me to pursue the inquiry, I will not press it.

MR. ARNOLD : Go ahead in your own way, Mr. Goodrich.

MR. GOODRICH : I think I prefer not to ask it. Just as you choose.

MR. PARSONS : Mr. Chairman, may I interrupt one moment? The question is of the performance by a public officer of his duty. That public officer is the gentleman upon whom largely does it devolve to say whether crime shall be punished or go unpunished. The conversation referred to — I mean the assumed conversation in the Grand Jury room — is between him and a body which must take its instructions from him.

Now it seems to go without saying — I think such must be the unanimous view of the Committee, and certainly it is of counsel, after a consideration of the subject -- that it is of the highest importance that the community should understand how the District Attorney advises that constitutional body, which takes its instructions from him.

CHAIRMAN BACON : The Committee are unanimously of the opinion that that should be known.

MR. COLE : And that the question should be answered.

(The question was again read by the stenographer, as follows :)

Q. What was the advice given by the District Attorney upon that subject?

THE WITNESS : The question was, the immediate effect of an indictment of the Sheriff, as I understood it.

MR. GOODRICH: The question was, the immediate effect of an indictment upon the Sheriff. Proceed?

A. His answer was substantially this: That it would instantly remove him from office, and that he would forfeit all the fees and emoluments of his office from that time forth, and be practically disfranchised, and that he might as well pack up and leave; that would be his advice to him.

Q. I ask you to be very cautious and careful as to your statement of that conversation, as to whether the question addressed to the District Attorney was as to the effect of an indictment, and whether there was that in his answer which showed that he appreciated the question, and in his advice referred to the effect of an indictment simply upon the Sheriff?

A. It was an indictment; that was all that was talked about. And will you allow me to state—

MR. GOODRICH: I will be very pleased to have you to state.

THE WITNESS: What impressed it upon my mind so clearly was, it was discussed by the Grand Jury as to there being a very severe penalty following an indictment; that if the man was convicted afterwards, why, we wouldn't be surprised; but the effect of an indictment removing him from office and compelling him to forfeit his fees looked to us as being a very severe punishment; and we hesitated about anything being done. I don't know as it would have been done, but it was discussed, at any rate, by the members of the Grand Jury.

Q. In other words, I understand you to say that the advice was, that if an indictment was found against Sheriff Farley it would remove him from office, take away from him the emoluments of office and disfranchise him; that is the substance of it?

A. That is the substance of it; yes, sir.

Q. After this discussion, and either at the same or subsequent meeting of the Grand Jury, did the District Attorney come before you upon the subject and advise with you?

A. He was asked later—

Q. First, did he come before you ?

A. He was asked to come before us, yes, sir ; for the purpose of explaining where that law was to be found.

Q. You may state what questions were put to him then, and what answers he made in that regard ?

A. Mr. Seeley, the foreman, asked him when he came in if he could point out whereabouts that law was that stated upon an indictment the sheriff would be removed, and so on, and he sent right down for some books, but he failed to find the law, I believe.

MR. GOODRICH : That is all.

James W. Ridgway, recalled and further examined :

THE WITNESS : With the permission of the committee, I desire to correct the testimony I gave at the last meeting. When asked by Mr. Goodrich to state the names of the various persons who were convicted on December 1, I referred to this list which I depended on as an extract from the minutes of the office. In looking down the list and seeing, as you will observe by an examination of this list, "convicted December 1, 1884," and these ditto marks under "Pool-selling;" the word ditto I thought meant ditto on all the list down, so I inadvertently stated George Rose, John Kelly, Peter Cridge, Fred. Dutch, Carl Fuller, A. Flack, Herman Schneider, Michael Kelly and Richard Rogers; I inadvertently stated they were convicted, because they appear as I exhibit to you on the list.

BY MR. GOODRICH : Q. Then you desire to correct your testimony in that respect ?

A. Yes, sir.

Q. By saying those persons were not convicted on December 1, 1884 ?

A. Yes, sir.

Q. Were they convicted at all ?

A. No, sir.

Q. They have never been tried ?

A. Yes : some of them have been tried.

Q. Specify which of those ?

A. Mr. Walkley, who was chief clerk of the office, will specify all that were tried, when you call him.

Q. So the effect of your correction is, to withdraw that part in which you stated those convicted on December 1, 1884 ?

A. Yes, sir.

Q. In your testimony of Saturday you spoke of indictments being found against a number of John Does and Richard Roes. Were any such indictments found in 1884, and if so give the number of the indictments ?

A. I don't see any, Mr. Goodrich, on the 1884 list.

Q. Were there any found in 1885, and, if so, give the numbers, the office numbers, I suppose, of the indictments ?

A. I find under the heading of June 23, 1885, indictment No. 843, which is Michael Murray. John Doe and Richard Roe, those three persons being jointly indicted. Under heading of June 23, 1885, same date, indictment No. 844, Edward Rose, jointly indicted with John Doe, Richard Roe, Thomas Roe, alias Charles Clifton. Under heading of June 23, 1885, indictment No. 845, Thomas Brown, jointly indicted with Richard Roe. None of the parties whose names I have read off have been arrested. Bench warrants were issued, but I will state, if you want me to state, where these indictments are now.

Q. I have no objection.

A. I was going to state after the three trials in the Court of Sessions, before Judge Moore and a jury, which lasted two weeks, and in which Mr Beecher was associated with me, and in which the jury disagreed, there was some question raised as to whether the cases ought not to be transferred by the parties making the complaint—they found some fault with the trial in that Court ; whereupon I moved the indictments to the Court of Oyer and Terminer for trial ; so in looking over this list, where you see “transferred to O. and T.,” it means transferred to Oyer and Terminer, October 9, 1886. I immediately moved before the judge in the Court of Oyer and Terminer to fix a day

for trial. Mr. Justice Pratt refused to fix it. I appeared before him again, on notice to the other side, and moved to have a day fixed. The Judge again refused to try them.

Q. You are rather wandering from my question. Have you stated the indictments found against fictitious names in 1885 ?

A. I think so ; so far as this list shows.

Q. State all those fictitious names in 1886 ?

A. June 22, 1885, indictment No. 1373, David Johnson, jointly indicted with John Doe and Richard Roe. June 22, 1886, J. Cotton, indictment No. 1374, jointly indicted with Thomas Hoe and Peter Hoe. Same date, No. 1375, Herman Traub, jointly indicted with Peter Roe and George Roe. Same date, No. 1376, H. Schneider, jointly indicted with Peter Roe and Richard Roe. Same date, No. 1377, Richard Hackett, jointly indicted with Henry Hoe. Same date, No. 1378, James McDonald, jointly indicted with William Roe and Henry Hoe. No. 1382, same date, Daniel Doe, Jeremiah Hoe and Abraham Doe, jointly indicted. Same date, indictment No. 1415, James Dunn, jointly indicted with John Doe. No. 1416, same date, Samuel Emory, Solomon Doe and Horatio Doe. Unless these other names are fictitious names, those are all that I see.

Q. In giving the number of indictments found during your term as 105, does that include the indictments found against John Doe and Richard Roe ?

A. Yes, sir ; it includes the duplicates and these indictments and the indictments of Engeman, Battersby and others, who were afterwards indicted as an association. We first indicted them as individuals and found that we couldn't hold them, after consultation, and then we superseded those indictments with an indictment against the association, so that although they were not properly indicted they swell the aggregate of cases.

Q. Isn't it quite a usual thing where a joint crime is alleged to have been committed and where it is not known whether one, two or more persons were engaged in it, to

insert in the indictment the names of those persons whose names are not known as John Doe and Richard Doe?

A. It is proper, but not common, because we usually get the right names.

Q. The Penal Code and the Code of Criminal Procedure, to day embody and consolidate the criminal laws and the laws of Criminal Procedure, do they not?

A. Yes, sir.

Q. Do you know any section of the Penal Code, or of the Code of Criminal Procedure, which makes it the specific duty of the District Attorney to inform against and prosecute offenders against any of the criminal statutes?

A. Yes, sir; wherever complaints are made, it becomes his duty.

Q. I didn't ask you that; I asked you if you knew any statute which made it the specific duty of the District Attorney to inform against and prosecute an offender (I will add), where he had reason to suppose that a crime was committed?

A. Yes, sir.

Q. What section of the Code is that?

A. I will refer you to it if you hand me the Code.

Q. Is it Section 349?

A. 349, I think.

MR. GOODRICH: I will read that section:

“Section 349. Certain officers, directed to prosecute offences under this chapter.—It is the duty of all sheriffs, constables, police officers, and prosecuting or district attorneys to inform against and prosecute all persons whom they have reason to believe offenders against the provisions of this chapter; and any omission so to do is punishable by a fine not exceeding five hundred dollars.”

THE WITNESS: Yes, sir; that is the section.

Q. Is Chapter 9 referred to in that section the chapter which defines pool selling and other species of gambling; do you know?

A. I don't quite catch your question.

Q. Is Chapter 9 referred to in that section the chapter which defines pool selling and other species of gambling?

A. It relates to all offenses against our laws.

Q. That chapter?

A. That chapter makes it the duty of the District Attorney to prosecute the cases.

Q. Is Chapter 9 specifically devoted to offenses in the nature of gambling?

A. Read the section.

Q. I call your attention to the statute and ask you again whether that chapter 9 is not headed "Gaming," in the Penal Code?

A. I don't see which you mean.

Q. Chapter 9?

A. (Examining the book.) Chapter 9, Sec. 336, refers to keeping gambling apparatus.

Q. I ask you the question whether Chapter 9 is not headed, "Penal Code—Gaming?"

A. Yes, sir.

Q. Are not all the offenses named in that chapter, gambling, pool selling and cognate offenses?

A. Yes, sir.

Q. I ask you now whether that Sec. 349, which is a part of that chapter, is not the only section which you know of in the Penal Code or the Code of Criminal Procedure which imposes the specific duty upon the District Attorney of informing and prosecuting offenders against the provisions of that chapter upon his own personal knowledge and information, without waiting for a complaint to be made?

A. I will say that section 349 is the only section that specifically imposes the obligation, for that certain character of case.

Q. I have also understood you to say in your testimony of Saturday that by your reading of the public newspapers you were advised and notified that pool selling was publicly proclaimed in advance upon the race tracks at Coney Island?

Q. Yes, sir.

Q. You were thus informed, Mr. District Attorney, that a public crime was being intended at Coney Island, were you not?

A. Yes, sir ; so far as that knowledge is concerned, I was.

Q. And that knowledge was derived from the public press during the whole of the period during which the racing courses were open at Coney Island for the year 1884 ?

A. Whenever I read the paper and read it, of course then it was attracted to my attention.

Q. And was that substantially the case in 1885 ?

A. Yes, sir.

Q. And in 1886 ?

A. Yes, sir.

Q. Were also complaints made to you by citizens that pool selling and gambling were notoriously and openly conducted at Coney Island during all these years ?

A. I think in three instances citizens complained that they had purchased tickets and produced the tickets, and then when they got their money they failed to appear afterwards, and never made any complaint when we notified them. Complaints are generally made on losing tickets.

Q. In your judgment does Sec. 349, to which I have referred, impose upon you a superior obligation with regard to crimes against the statute of gaming over what is imposed by the ordinary statutes in regard to other crimes ?

A. It imposes upon me the obligation as a public officer, to inform against where I have the information, and to prosecute ; to do my duty to the people.

Q. And does it specifically point your attention to that class of offences ?

A. Yes, sir.

Q. And imposes the specific duty of giving peculiar and special attention to that class of cases ?

A. No, sir ; no more than any other. The statute don't require that I should prosecute that to the exclusion of some other greater degree of crime.

Q. I ask you whether it does not impose a peculiar duty upon you in that regard ?

A. It imposes a specific duty, Mr. Goodrich.

Q. Does it impose a peculiar duty of informing (which I emphasize) prosecuting that class of cases ?

A. It imposes a specific duty ; that is, to inform against and prosecute.

Q. Whenever you have reason to believe that such a crime is being perpetrated ?

A. Yes, sir ; that is susceptible of a reasonable and fair interpretation. isn't it, like all other statutes ?

Q. I ask you, Mr. Ridgway, whether, during the years that you held that office, a single sentence has been executed upon any person for pool selling, gaming or gambling at Coney Island ?

A. Yes, sir.

Q. Upon whom has the sentence been carried out ?

A. There was one case where the officers from the District Attorney's office—

Q. Mr. Ridgway, I must ask you now to give the names ?

A. I don't propose, unless the Committee subject me within the narrow limits of the question, to be confined to categorical answers to your questions simply ; I answer your question, that it was the case of the People against Paul Bauer.

Q. What was the sentence in Paul Bauer's case ?

A. I think \$750 fine and some months imprisonment ; I don't remember the exact time.

Q. Did Mr. Bauer serve any imprisonment ?

A. A portion of it.

Q. He paid his fine, did he not ?

A. He did, sir.

Q. Why did he fail to serve the whole term of his sentence of imprisonment ?

A. Mr. Bauer was convicted of being the proprietor, lessee or owner of a place in which books were made ; we had but one case against Mr. Bauer ; it was an isolated case ; it was a case in which men went into his place on a Sunday, and on Sunday made books, in hand, on the New Orleans races. Those men were arrested by the officers from the District Attorney's office. Mr. Bauer came to the District Attorney's office to give bail for one of the men ; and in justifying as a surety he swore that he was the owner of the place in which the books were made. Upon that we presented him to the Grand Jury ; they indicted him for being the owner of the place ; he pleaded guilty and was

sentenced to pay a fine of \$750 and undergo a sentence of imprisonment.

Q. How long ?

A. Well, I don't know ; three or four months, something like that.

Q. Was it not six months ?

A. It may have been ; I don't recall the length of time.

Q. Proceed.

A. He was sentenced by Judge Moore, and he was taken to the Penitentiary. An application was made upon notice by his counsel before Mr. Justice Pratt for a certificate of doubt pending an appeal. The ground of the appeal was this : that the Judge had no discretion to sentence for any lower term than one year ; counsel contending that the Penal Code held that he should be imprisoned, if at all, for a year ; it struck me as being a strange ground of appeal ; because in either event he would serve either the term for which he was sentenced, or he would serve the year, if the judgment was corrected. At all events, Mr. Justice Pratt allowed the application and granted a Certificate of Doubt. Before the Certificate of Doubt was granted, counsel took the ground that the Court had a perfect right to impose a fine, whereupon Bauer paid the fine of \$750. He went out on bail. The case went up on appeal, and my impression is his case was affirmed at the General Term. When he went out on bail from the Penitentiary he called at our office and assured us that he would never permit a pool to be sold upon his grounds or any violation of law whatever. We told Mr. Bauer, "Then we will hold this matter in abeyance over you. We don't wish to imprison you, but we wish to put a stop to this business on the Island, if possible. If you will prohibit these violations of law upon your premises I will not move this appeal, but the first time that news comes to this office that any violation of law has occurred upon your premises of this character I shall move for a judgment on this appeal." And that is the way the matter stands now.

And I will state, gentlemen, that since that we have watched and sent people there, and no violation of law has

ever occurred on the premises since; and the effect of our determination of the matter has produced this result, that no books, no pools, or any violation of the gaming laws has been committed on his premises to our knowledge, as far as we have been able to obtain any information upon the subject.

BY MR. COLE: Q. How long ago was that?

A. I think Bauer was indicted February 19, 1885, and convicted February 26, 1885.

BY MR. GOODRICH: Q. And the General Term affirmed that conviction in May, 1885?

A. It was argued, I think, in May, and, if I am not mistaken, it was decided in September.

Q. I think you are mistaken, are you not?

A. I don't state that positively, because I don't know. If you have made an examination, Mr. Goodrich, whatever you say has been done, I assume is right, if you personally made the examination.

BY MR. COLE: Q. Do you consider that the law authorizes you to hold this motion for a judgment in abeyance as long as you see fit?

A. I believe the policy of the law is to prevent the commission of crime; and if the commission of crime can best be prevented in that way, we have accomplished the greatest amount of good without inflicting any very serious injury?

BY MR. PARSONS: That would obliterate punishment altogether, would it not?

A. Not necessarily so; we wouldn't take the word of every man that he would refrain from the commission of crime.

Q. Why do you make an exception in favor of gamblers?

A. I don't make an exception. You misunderstand me. I have made every exertion to prosecute them, and convict them. It is the misfortune that you cannot get a jury in this County to convict. It is just as difficult to convict of poolselling in Kings County as it is in Hamilton County to convict for violation of the game laws.

BY MR. GOODRICH : Q. I understand that Paul Bauer was convicted of gambling ?

A. No, sir.

Q. Of poolselling ?

A. The circumstances I have stated were these : he was not on the Island the day these offenses were committed on his premises ; but he was technically guilty.

Q. There was conviction, was there not ?

A. By plea.

Q. And there was sentence ?

A. Yes, sir.

Q. In your judgment, Mr. District Attorney, isn't that equivalent to conviction by trial ?

A. Why certainly.

Q. I call your attention to this statement, which I will make subject to correction : that the affirmance of that judgment was at the May term, 1885 ?

A. Yes, sir.

Q. How long did Mr. Bauer serve of his term of six months ?

A. I should think he was in there more than two weeks.

Q. More than two weeks ?

A. I should think so.

Q. And since that time, I understand you to say that, although Mr. Bauer plead guilty and was sentenced, and although the General Term affirmed his conviction and thus settled the law, you have permitted Mr. Bauer to go at large ?

A. Yes, sir.

Q. Pardon me : without any stay of proceedings—without any appeal ?

A. Yes, sir.

Q. Upon your own judgment that that was the best for the public interests ?

A. The best for the public interests and for no other reason whatever.

Q. In spite of the fact that section 349 of the Code imposes upon the District Attorney the special duty of prosecuting this class of cases ?

A. Yes, sir. I felt, Mr. Goodrich, that if the keeper of

one of the largest establishments on the island—one of the hotels—could be punished in that way, that that would be quite an example and probably stop the business.

Q. Where is the example, Mr. Ridgway, if after affirmation of that conviction by the General Term you allow the offender to go at large with no appeal taken, no stay obtained, and the case being one of great notoriety and publicity? Does it not, in other words, permit other offenders to believe that upon penitential promises of reform they will escape sentence?

A. No, sir; that simply in view of the fact that he was fined \$750, which he paid, and that he underwent imprisonment for say twelve or fifteen days for the simple offence of being owner of the place, is a very important example; for the simple reason that Judge Cowing, in New York, has only imposed a fine of twenty-five dollars in cases where the people have been actually convicted of selling pools and permitting the gaming themselves.

Q. In what statute or provision of the Common Law do you find the warrant for the District Attorney practically to override the judgment of the General Term of the Supreme Court and permit offenders to go at large when under sentence, the sentence being unexecuted?

A. I have never overridden the judgment of the Supreme Court. The case is in such a position that I can move it at any time I like.

Q. Do you not override the judgment of the Supreme Court affirming this sentence when you permit the prisoner under conviction and sentence of imprisonment to go at large?

A. No, sir, I don't think I do.

BY CHAIRMAN BACON: Q. Is he under bail?

A. Yes, sir. No violation of law, Mr. Bacon, has ever occurred from that day until this at that place. It has had the best result that could possibly be produced.

BY MR. GOODRICH: Q. Well, possibly there is no violation of law, as you state, in Paul Bauer's place; but isn't it true that public gambling has gone on since that

time with the same publicity and notoriety as before at other places there?

A. I know of no other instances where public gambling has been carried on outside of the race track on Coney Island in any one instance since.

Q. It certainly has not had the effect of stopping public gambling on the race tracks?

A. On the race tracks, on race days. I don't say that that conviction itself has had that result on the race track; but you must understand that they keep changing the mode of betting on the race tracks, and each one of these forms of betting has to be submitted to the jury. Permit me to give one instance.

MR. GOODRICH: Pardon me, but don't.

THE WITNESS: It won't hurt your case.

MR. GOODRICH: I will give you every chance very soon. But kindly, as a lawyer, have regard to the continuity of my examination and allow me to go on with my questions.

THE WITNESS: Permit me.

MR. GOODRICH: Very well, go on.

THE WITNESS: I was going to say this: Mr. Beecher and myself before a carefully selected jury tried a case against the Brighton Beach Racing Association. We introduced that registering instrument, and on an uncontradicted state of facts the jury were out, I think, thirty-six hours and refused to convict. Mr. Beecher complimented me upon the presentation of the case in the summing up, for which I shall always feel grateful to him; and the jury disagreed. It is the misfortune that it was the incompetency of the jury; not the fault of the District Attorney.

Q. Mr. District Attorney, with the exception of Paul Bauer, during all the term of your official life, has a sentence for pool selling or gambling of any kind at Coney Island been carried out?

A. I can't recall any case myself, sir.

Q. Don't you know it to be a fact that no other sentence has been carried out during the three years of your official position?

A. I know of none outside of that, sir.

Q. And yet, during all that time, gambling has been notorious, has been paraded in the newspapers, great efforts have been made towards its suppression, and a public campaign was fought upon that subject?

A. Yes, sir.

Q. And during all that time you have not moved for the execution of a sentence upon any gambling corporation or gambler at Coney Island?

A. I have, where I have had an opportunity.

Q. Have you moved for sentence in any one case? I don't ask you for the reason but for the fact, whether a single sentence has been carried out?

A. Yes, sir; I moved for sentence and was met with a stay.

Q. Is that the case of James E. Kelly?

A. The Kelly case. yes, sir.

Q. That was nearly a year ago, was it not?

A. I moved right away.

Q. Why was not the sentence enforced?

THE WITNESS: May I ask to speak to Mr. Walkley, to ask him whether he brought that stay over here. (Addressing Mr. Walkley.) Is that certificate here?

MR. WALKLEY: It is here.

A. In answer to your question, why was not the sentence imposed, I read this:

“ Supreme Court,

“ County of Kings.

“ People of the State of New York

vs.

“ James E. Kelly, Thomas Murray and

“ John S. Stow, impleaded.

“ Honorable Calvin E. Pratt, one of the Justices
“ of the Supreme Court of the State of New York,
“ do hereby certify that in my opinion there is
“ reasonable doubt whether the judgment of con-
“ viction entered against the above-named defend-

“ants in the Court of Sessions of the County of
“Kings on the 1st day of December, 1884, an in-
“dictment charging the said defendants with regis-
“tering and recording bets and wagers, should
“stand.

“Dated December , 1884.

“C. E. PRATT,

“Justice of the Supreme Court.”

Q. That was before the appeal was taken to the General Term, was it not?

A. Yes, sir.

Q. Don't you know that a stay granted on such a certificate as that, or a stay granted on any appeal, is of effect only until the decision of the Court to which the appeal is taken?

A. Yes, sir; I would so regard it, so far as the stay itself is concerned?

Q. And, therefore, there was no legal warrant in that certificate of doubt, after the affirmance of conviction at the General Term; no legal warrant for your failure to move for sentence?

A. There was no legal objection to moving for sentence then.

Q. Then I ask you why at the end, after the affirmance of conviction at the General Term, you did not at that time move for execution of sentence?

A. Because a stipulation was entered into in open Court before Judge Moore, that all proceedings should be stayed; that they should regard a stay to be in existence in the case until the case reached the Court of Appeals and the case was determined.

Q. When was that stay?

A. That was made in open Court the day the demurrer was argued.

Q. That was still the day of the argument at Sessions and before the affirmance?

A. Before the affirmance by the General Term, yes, sir; so that there was an oral stipulation by counsel in the

presence of the Court, that the stay should exist until the cases were determined by the Court of Appeals.

Q. But really no appeal has been taken to the Court of Appeals since that time?

A. Yes, sir.

Q. I read you the certificate of the Clerk of the Court of Appeals at the last hearing that there was no appeal taken to the Court up to the 15th day of this month?

A. You don't want to mislead the public, Mr. Goodrich, by saying that the Court of Appeals say that there is no appeal pending there.

Q. I said no return filed?

A. The clerk simply certifies in the paper that you read here that the return has not been filed there.

Q. But is the case in the Court of Appeals until the return is filed?

A. The other side served us with the notice of appeal and the Clerk of the Court was served with the notice. It is the duty of the Clerk of the Court to make up the return and transmit it to the Court of Appeals.

Q. Don't you know that in the case of the failure to file the return at the next term of the Court of Appeals after a notice of appeal is served, the rules of the Court of Appeals provide for dismissal of the case for that reason?

A. Yes.

Q. And how many terms of the Court have intervened since June, 1885, when the notice of appeal was served?

A. I cannot tell you.

Q. Are there not four terms a year or five terms a year in the Court of Appeals?

A. I don't know; you have more business there than we do and you should know.

Q. Either four or five times a year, are there not?

A. I don't know. Whatever you say, that I shall regard as right upon that subject; you are there so much more than we have occasion to be.

Q. There are four or five terms a year; you know that, do you not?

A. No, sir, I do not. I don't know the number of terms

of the Court of Appeals in a year. If you say four or five terms I will agree with you.

Q. I will say that there are as many as four terms, for your information?

A. Very well; I will accept that.

Q. In other words, eight terms have intervened in the Court of Appeals in which motion could have been made in the Court of Appeals for dismissal of the writ for failure to file the return?

A. Yes, sir.

Q. And that motion you have not made?

A. No; I have not yet.

Q. Will you tell me the warrant of law for the suspension by the District Attorney of the execution of that sentence?

A. The same discretion that is vested in any judicial officer; the District Attorney is a quasi-judicial officer and has a certain amount of discretion. Men are brought before us technically guilty of burglary. If we were to persecute every man for the actual commission of a crime who is technically guilty, we would put a great many people in the penitentiary who never ought to be there. Therefore we exercise some discretion. Take, for instance, a young man charged with crime for the first time, whose record has been good, and our policy is always to give him a chance. I don't believe in the persecution or oppression of anybody.

Q. Do you regard it as persecution to punish an offender for the commission of a crime?

A. I do in some instances, yes, sir; some people that have committed technical offenses.

Q. Is there warrant of law for that, or is it simply the warrant of official practice or custom?

A. The same warrant of law of every man who feels that he does right by his fellow men and has the approbation of the people; that is all.

Q. Do you regard the approbation of the people as one of the elements which should enter into your decision of the mode in which you should administer your office?

A. In some instances I do.

Q. Is that your general habit of mind?

A. I don't believe that a man—

Q. I ask you is that your general habit of mind?

A. No it is not generally. We had a man who broke into an oyster saloon and stole something to eat. He was technically guilty of burglary and could have been sent to the Penitentiary; but it would have been a great piece of inhumanity to send him there.

Q. Mr. Ridgway, I call your attention to the singularity of the fact and ask your explanation of it: while there is a statute, which is the only statute in existence which imposes upon the District Attorney the specific duty to inform and prosecute against crime where he has reason to believe that crime exists, and in connection with that, to the other fact that during your whole term of office not a single sentence except that of Paul Bauer has been carried into execution?

A. There have been sentences, but you confine your question to Coney Island.

Q. I confine my question of course to Coney Island?

A. When I entered the office of the District Attorney I found there were pool shops in Brooklyn. These tracks were inaugurated under the administration of my predecessor, and under a different political administration. We found them there and tried to remedy the evils. I wiped it out of the city and there is not now a pool shop, gambling house or house of prostitution in this city to the knowledge of the police officers and the District Attorney; you can call every police captain of either political party; some are Republicans and one of the inspectors is a Republican, and you can ask them if they know of any pool shop, gambling house or house of prostitution in Brooklyn, and if he says so I will take action on it and endeavor to ascertain the facts and stop it; I subpenæd all of them before the Grand Jury, and they all testified that they did not know of the existence of a single house of that character in the city.

Q. I shall have to call your wandering attention to the subject of my question?

A. I am trying not to wander and I am trying to confine

myself to what I conceive to be the subject of the original resolution of the House.

Q. My question is : I call your attention to the singularity of the fact and ask your explanation of it, that while there is a statute which is the only statute in existence which imposes on the District Attorney the specific duty to inform and prosecute against gaming, where he has reason to believe that that crime exists, and in connection with that I call your attention to the other fact that during your whole term of office not a single sentence, except that of Paul Bauer, has been carried into execution ?

A. Do you ask me whether I know of any other instance ?

Q. Whether you don't think it a singular combination of results ?

A. Not at all. In every public office there is always something of the kind. In New York there are over 5,000 cases of indictment in the office pending against persons for violation of Excise law, yet I don't hear of any charge being made against the District Attorney for dereliction of duty there. If you will find any record in the office, or any other memorandum in this matter, I have no fault to find with its production.

Q. Are not the city pool rooms run in connection with and privy to Coney Island ?

A. I don't know of the existence of any. I did when I first went in office. I indicted them and convicted every one. They were convicted upon the complaints of our city police.

Q. Mr. Ridgway, are they not rather rivals of the Coney Island, these pool shops in the city ?

A. There are none in the City of Brooklyn.

Q. When they did exist were they not rivals ?

A. I don't know, except I heard they were there when I went in office. I called Captain Campbell's attention to them, the captain of that precinct. Without any delay he apprehended the parties and we had no trouble in convicting them upon the testimony of our own police officers.

Q. What were these pool shops to which you refer in the

City of Brooklyn; pool selling on the result of the races at Coney Island?

A. The result of the races all over the country.

Q. Were they not specially devoted to pool selling on the races at Coney Island?

A. No, sir. I don't think they were. I think in one of the convictions, if I remember rightly, it was for pool selling on the result of races at New Orleans.

Q. Generally, however, the pool selling in Brooklyn during the racing days at Coney Island was upon the races at that Island?

A. I presume upon all races, including those at Coney Island.

Q. In other words, I suppose that that would detract from the business of pool selling at Coney Island itself?

A. I don't know, sir.

Q. It is a sort of opposition to the Coney Island business, is it not?

A. I don't know whether it is or not. I don't know how much it would conflict with their interests.

Q. Don't you think if pool selling on races at Coney Island was being openly conducted in Brooklyn so that citizens could have access to them here without going to the Island, it would reduce the value of the business of pool selling at Coney Island?

A. I don't know; I have no experience in these matters, and I am unable to answer the question. I never patronize the pool rooms.

Q. There was a Mr. Fuller convicted of gambling in the City of Brooklyn; what was his name?

A. That was before I went into office.

Q. Before you went into office. How long?

A. I can't tell you just now. Mr. Comstock called upon me a short time after I went into office and told me these convictions were had and General Catlin had never moved for judgment. I moved for judgment before Judge McCue.

Q. In the Fuller case?

A. There were several cases; I don't recollect names. He was present at the time, and Judge McCue, in the case

of one man, who had been working on the elevated railroad ever since, suspended sentence in that case. Whether this is a dereliction of duty, I don't know. On another man he imposed a fine of \$50, or something like that.

Q. What about the Carl Fuller case?

A. I don't remember what was done with that ; I could examine the City Court records and tell you.

Q. I find the case of Carl Fuller, indictment against Carl Fuller?

A. What is he indicted for?

Q. I will come to that. I find that the indictment against Fuller was for policy selling ; that the warrant was issued by Justice Bergen ; that three indictments were found against him in January, 1882 ; that he was tried June 12, 1882, on one indictment?

A. Give me the date of the indictment, please.

Q. That he was sentenced during your official term on February 14, 1884, to six months' imprisonment and \$250 fine ; that an appeal was taken from that conviction to the General Term, and that the judgment was shortly afterward affirmed. I ask you whether he has served out his sentence of six months' imprisonment, or paid his fine of \$250 ?

A. I have no recollection of the case ; by turning to my minutes here, I find January 9, 1882, Carl Fuller was indicted for policy, and was dismissed by General Catlin December 29, 1883, before I went into office.

Q. I will refresh your memory by saying that two of the three indictments to which I have called your attention were dismissed on December 22, 1883. I am speaking of the three indictments upon which he was tried in June, 1882, and convicted, and the sentence affirmed on February 14, 1884?

A. I don't find it here, on this list.

Q. I call your attention to the statement specifically?

A. I answer that I am unable to give you any information, because I don't know anything of the case.

Q. I call your attention specifically to this public question, that hereafter you may have the opportunity to explain the circumstances at your leisure. I also ask you

whether subsequent indictments have not been found against Carl Fuller in your term. Look at the date, March 12, 1884.

A. On March 12, 1884, I find an indictment against Carl Fuller for policy ; he was then jointly indicted with Fitzlemon.

Q. And yet, with an indictment found against him during your term, he is at large with an unserved sentence and an unpaid fine on a previous indictment ?

A. You are asking me about something of which I have no personal knowledge. I never knew that he was indicted during my term, until you called my attention to it. I don't know the names of all the persons that are indicted.

Q. How many race courses where pool selling is notoriously conducted have there been at Coney Island during your term ?

A. I don't know how to answer the question when you couple with the question " notoriously " ; that assumes something I don't admit. You assume that I have a personal knowledge of a notorious violation of the law ; if I have a knowledge of a violation of the law I present it to the court in the proper way for prosecution ; there are no convictions ; the jury have not convicted. If you ask me how many race tracks there were upon which it is alleged these violations of law occurred, I will say I have heard of two, the Brighton Beach and Sheepshead tracks.

Q. Didn't you hear that there was poolselling on the Brooklyn Jockey Club track ?

A. No, sir ; I never heard of poolselling on that track.

Q. That was in last August ?

A. Yes, sir ; but I never heard that they sold pools there.

Q. Did you hear that they made books there ?

A. I heard that there was a form of betting on the track, and we had witnesses before the Grand Jury. As soon as I read of it in the paper, I sent to the Eagle office to Mr. McKelway, and asked for the name of the writer of the article, believing he would be the best one to

give evidence, and he appeared before the Grand Jury and gave testimony on the subject.

Q. When did he appear?

A. The next day I think. Mr. McKelway sent for him that night, and the next morning he appeared.

Q. In what month was that; was that in the October term of last year?

A. I think so.

Q. Didn't the Grand Jury present this subject of pool-selling after the testimony thus given by the gentleman whom you refer to?

A. I don't recollect.

Q. I want to ask how you came to press the indictments against the corporations, upon whom at the most only a fine could be inflicted, while the trial of individual gamblers was delayed?

A. Because it was stated in an interview published in a newspaper, between the man whom Mr. Parsons doesn't wish me to mention and a representative of the paper.

Q. I have no delicacy of that kind myself; I have no objection to your mentioning the man?

A. It was stated in an interview published in the paper between the gentleman that Mr. Parsons didn't wish me to refer to and the representative of the paper that published it, that we wouldn't try the clubs; that we didn't dare to touch the Coney Island Jockey Club, because they were all rich men, such as Messrs. Perry Belmont, August Belmont, Belmont Purdy, Mr. Withers and other gentlemen, and it was alleged that they were members of different clubs with me, and that for that reason they had influenced me.

Q. You didn't allow public clamor in that case to influence your action?

A. Let me answer the question. It was said that I wouldn't try their cases; that they were rich and influential men. Whereupon I moved the case of the Association, believing that if I could convict the Association, the Association would then thereafter obliterate this from the track.

Q. Did you move them until after the second charges were preferred against you to the Governor?

A. Oh, as to the charges I may say this : The charges to the Governor never had had the slightest effect upon me ; I didn't care for the charges.

Q. Didn't you state in your testimony on Saturday that one of the reasons for your failure to exercise your official power was because of public clamor, including the presentation of those charges to the Governor ?

A. I said that is one of the reasons why I did not do it ; that was not one of the reasons why I did do it.

Q. The distinction is very fine ; but I ask you whether the persons who composed the club which you indicted would not have been subject to conviction personally if you had them indicted for the same offence for which you indicted the club itself ?

A. No, sir ; a proposition was made by the complainant to indict Mr. James Gordon Bennett, Mr. August Belmont, Mr. Leonard Jerome, Mr. Lawrence, Mr. Carroll Livingston, Mr. Withers, Mr. Wright Sanford and a large number of other gentlemen who were members of the club. The Grand Jury debated the question as to whether they could be indicted. I am not the instructor of the Grand Jury, as you misinterpreted the law a little while ago. I am simply the adviser of the Grand Jury ; the Court is the instructor ; I advised the Grand Jury, and then asked them to take their instructions from the Court. The Grand Jury of which this gentleman, Mr. Sanbern, who testified this morning, was a member, called upon Judge Moore and asked whether they could indict the individuals. Judge Moore told them that they could not indict James Gordon Bennett and Leonard Jerome and others as individuals ; that they could be indicted as a corporation. As I say, I am the adviser of the Grand Jury ; the Judge is the instructor. I follow instructions. I always defer to the Court, and never oppose an opinion of law as expressed by the Court.

BY CHAIRMAN BACON : Q. You defer to the opinion of the Court except when the Court imposes a sentence upon a convicted offender, as in the case of Paul Bauer, and then you do not defer to the Court ?

A. I deferred to that then, too; yes, sir.

BY MR. COLE: Q. Was Anthony Comstock the complainant in all of the cases; no other citizens make the complaints; he is the complainant who appears in indicting all; is that so?

A. Yes, sir.

BY MR. GOODRICH: Q. That is the duty of Mr. Comstock in suppressing vicious practices in this city, is it not?

A. That is his ostensible purpose.

Q. Is that the object of the society with which he is associated?

A. I have no criticism to make upon the gentlemen who, as supporters of the Society, belong to that Society. But societies are unfortunate sometimes in securing bad agents; that is a misfortune. Mr. Parsons, who is a member of Mr. Comstock's Society, does not understand all that is going on. His extensive practice would not permit him to inquire into the acts of his subordinates.

Q. I don't propose to investigate Mr. Parsons in this examination?

A. No, sir, none of us criticize Mr. Parsons.

Q. Who arrests offenders when indictments are found against them?

A. If we indict the man who murdered Mr. Weeks the Police Department will arrest him. If we indict a man at Coney Island for an offense of that kind, we issue a bench warrant to the Sheriff of the County of Kings, he being the legally constituted officer.

Q. Have you special officers connected with your office who execute these warrants, either bench warrants or the process which takes the person who has been indicted?

A. Once or twice in trifling little cases the subpoena server has been given them; and those that have been deputized as special deputy sheriffs have been given bench warrants for service in the immediate neighborhood.

Q. Are there not persons in your office whose special duty it is to execute that class of processes and who are sworn as deputy sheriffs?

A. No, sir; the economical government of the city prevents

that arrangement. I have applied to our Police Department to detail an officer for that purpose. The Commissioner very cheerfully acquiesced in the necessity of it and expressed a desire to detail him, but provided that the county should pay him. Now, we have got to get a resolution or some authority for the county to pay him before we can do that. We are unlike New York County, not having any contingent fund. We have simply a salaried list. In New York they have \$25,000 for that purpose while we have none.

Q. Do you remember a large number of indictments were found against Coney Island gamblers in June, 1884?

A. Yes, sir.

Q. I think those were the names to which I called your attention. to those who were indicted in connection with James E. Kelly, who has been a witness on the stand here?

A. Yes, sir.

Q. Do you remember that those indictments were against notorious gamblers?

A. No, sir.

Q. Can you call the names?

A. The names I furnished you. I don't know the gentlemen personally. I never saw them until they were arraigned in Court.

Q. Have you got the names of those men?

A. They are all on this list that I have presented here.

Q. The cases to which I refer are indictments found June 30, 1884, against Michael Murray, John T. McDougal, James E. Kelly, James Murray, Mark Jordan, Thomas Dunn, John S. Stowe, David H. Johnson and Albert H. Cridge?

A. Yes, sir.

Q. Have not your investigations into the subject of pool selling at Coney Island advised you that these were notorious gamblers?

A. No, sir.

Q. Don't you know that Albert H. Cridge is a public gambler?

A. I don't know what warrants are there.

Q. You handed them to me as the warrants (with a great deal of emphasis) which were issued to Louis R. Stegman for the arrest of Michael Murray and these other people on the 30th of June?

A. Yes, sir.

Q. I ask you to hand me the one of them which relates to the indictment of Michael Murray June 30th?

A. I didn't say they were handed to him by me; they are the indictments of the Court.

Q. My question said that you handed the warrants to me?

A. They are the warrants of the Court, not of the District Attorney.

Q. Please to hand me the warrant issued upon the indictment of Michael Murray on the 30th of June?

A. I don't see it among those I have in my hand. I don't see any such warrant here.

Q. Can you find in those papers the warrant for the arrest of any of the persons whose names I have given to you?

A. Wouldn't it be better to read off the names here, and that will show whether there are any.

Q. I will shorten it in this way; will you hand to me the warrant for the arrest of any of the persons whose names I have recalled to you upon the indictment of June 30th?

A. Just call off the names now.

Q. Michael Murray, John T. McDougal, James E. Kelly, James Murray, Mark Jordan, James Dunn, John S. Stowe, David H. Johnson and Albert Cridge?

A. There is Peter Cridge; is that the one?

Q. You need not hand me that one; do you find any others?

A. No, sir.

Q. You have now handed me a bench warrant against Mark Jordan; I ask your attention to the date of it; is it not the 8th of July?

A. The date is the 8th of July.

Q. And this is the warrant that was issued for the arrest

of Mark Jordan on the indictment of the 30th of June, is it ?

A. I assume it is, because it was handed to me by the Clerk of the Court among the others. It is not our warrant; it was not issued to me.

Q. Is this the only warrant which you find of those to which I have called your attention ?

A. That is the only one I have in this bundle.

Q. Will you kindly say whether Louis R. Stegman did not arrest or return as arrested the person named in that warrant ?

A. Yes, sir; by the return on the back, he arrested him.

Q. Is there any statement in the warrants which you have handed me which justifies the statement which you have made that all the bench warrants upon which arrests were not made were returned by the Sheriff with the designation that the persons described in them were myths ?

A. What I wish to state is this: that whenever indictments are filed upon which warrants are issued, unless the party is in custody or unless he gives bail, then we give him notice to appear.

Q. But you state that the warrants on these indictments had been delivered to Sheriff Stegman and that they were returned as not found ?

A. Yes, sir.

Q. In the warrants handed to me by you there is no such warrant or return, is there ?

A. That they had not been found.

Q. Except the one of Mark Jordan ?

A. Yes, sir.

Q. Pardon me, Mr. Ridgway—let me see the paper; are you quite correct about that ?

A. Well, on the indictment of June 30.

Q. Among the persons I named ?

A. Here is one; Aaron Platt.

Q. I didn't call him ?

A. Do you confine me to the names called off ?

Q. I ask you whether you have got any return of any one of those persons ?

A. You ask me the names of those I have not got. I want to be asked about those that I have got.

Q. You understand that it is not in human nature to do everything all at once, Mr. Ridgway?

A. Well, I haven't got those.

Q. Then do you want to correct your statement that you have the returns of the Sheriff as to the persons of whom I have been inquiring?

A. I have no desire to correct my statement except to state, in addition to what I have stated to you, that I hand to you the bench warrants delivered to me by the clerk of the Court as having been returned to him by the Sheriff.

Q. But there is no warrant against any one of these persons of whom I have asked you, as being indicted on June 30?

A. Do you want me to explain how that probably occurred?

Q. Suppose you answer my question first?

A. I don't find any warrant in these papers.

Q. I have no objection to your statement now?

A. I will state this; that the following day after the testimony was given in the Grand Jury, if the testimony was given on the 29th, the Grand Jury presented the indictment on the morning of the 30th; I was informed by the chief clerk that a number of men said to have been indicted had called into the office and wished to give bail; the indictments had not then been presented to the Grand Jury; he asked them where they got their information, and they stated that a Mr. Britton and Mr. Oram had been down on the race track and told them that they had given evidence before the Grand Jury, and that they would be presented in the morning, and that they had better be present and give bail; that would account for there being no bench warrants in the case.

Q. Were you present when that conversation occurred between Mr. Walkley and the gamblers?

A. No, sir.

Q. And you are speaking now of a double hearsay—a statement by Mr. Walkley to you of statements that had been made to him?

A. That Mr. Walkley told me that it was a strange thing that they did not appear.

Q. You don't think that that rises to the dignity of testimony, even before a committee, do you ?

A. If you ask me such a question, it does. This was given to you by way of explanation of what you know.

Q. I ask you to produce the bench warrants that were issued ?

A. You cannot produce something that does not exist. .

Q. You don't think any warrants exist ?

A. I don't know ; I don't find them.

Q. Did you ask the clerk of the Court to produce all the warrants that had been issued ?

A. All the warrants that had been returned to him by Mr. Stegman ; this is his bundle that he handed to me.

Q. And those are all the bench warrants that you know of ?

A. All that I know of at that time, June 30. Now shall I read the return on one of them.

Q. You may read one of the returns of Sheriff Stegman ?

A. People of the State of New York against Aaron Platt, bench warrant against Aaron Platt on indictment June 30th, for the offense of registering and recording bets ; bench warrant delivered to Sheriff Stegman, and returned by him with this endorsement : " I herewith return the defendant as not found, and further certify that from the best information obtainable I verily believe that such a person does not exist ; Louis R. Stegman, Sheriff."

Q. How many of those warrants had the same return ?

A. The same in the case of Richard Baker, the same in the case of Charles Campbell ; the same in the case of George Rose ; the same in the case of John Smith ; the same in the case of Herman Schneider ; the same in the case of Richard Rogers ; the same in the case of George Hall ; the same in the case of Frederick Dutch ; the same in the case of Michael Kelly ; the same in the case of Andrew Fuller ; the same in the case of Peter King, and these two other cases, Dougal MacDougal and Martin Jordan,

the returns are: "Arrested by me this day and produced in court. Lewis R. Stegman, Sheriff."

Q. What are the dates of those?

A. The warrants are dated July 8 and the return July 11, 1884.

Q. Is it not true that all those to which you have referred were warrants against persons who were indicted by a name, and an alias name?

A. I do not know.

Q. There is only one name, as I understand it, in the indictment or warrant?

A. I think it is customary where there are four or five people named in the indictment that a separate bench warrant be issued for each person, because the Sheriff, in making the return, if he made it only one or two out of the four or five, it would complicate the return somewhat.

Q. When a person is arrested under a wrong name and comes to plead you endeavor to get his name right?

A. Yes, sir.

Q. When a person is arrested on a wrong name in the indictment, you endeavor to get the right name, and therefore it is known, as for instance, John Dougal alias Dougal McDougal?

A. If he refuses to plead on the ground that it is a misnomer, we correct the name and take a new indictment in the right name. If he pleads to the indictment and the name is wrong, we correct the indictment with the right name.

Q. You don't remember whether upon these indictments to which I have referred you issued a bench warrant under your own authority or at your own request?

A. I could not tell now, sir.

Q. There is a process by which a District Attorney can issue a bench warrant is there not?

A. Yes, sir.

Q. You don't remember whether any specific case to which I have called your attention, that is, the indictments of the 30th of June, your office issued bench warrants or not?

A. I cannot tell in this particular case whether we did or not.

Q. But you have not produced any bench warrants or any other warrants for persons indicted on the 30th of June, than the one to which you have referred of those for which I asked you?

A. No, sir; I should infer now that those were issued from the Court; I should infer that most likely those that were issued were issued from the Court.

Q. There is no evidence that bench warrants were issued at all for the nine persons indicted on the 30th of June to whose name I have called your attention?

A. No; but I don't want to be misunderstood in regard to that. If you will let us send over and get the bonds of the 30th of June then we can tell you whether those men gave bail before the bench warrants were issued.

MR. GOODRICH: I should be glad to have you do that. Mr. Walkly suggests that you are under some error. I think Mr. Walkley would better talk with you Mr. Ridgway. The error that he suggests I presume results from your being the head of the department and not a clerk.

THE WITNESS: I think Mr. Walkley would better be called at the proper time, because he has positive knowledge.

MR. GOODRICH: I assume that you cannot carry details of a great office like yours all through. After your conversation with Mr. Walkley at my suggestion, you can make any correction of record which you would like to make.

THE WITNESS: Yes, sir; my statement will stand substantially the same. Mr. Walkley says that some of the parties appeared at the office voluntarily after the indictment and the day the indictments were presented and gave bail. Some of them we were unable to identify. So it was agreed that Mr. Comstock's officer, Mr. Britton, should go down with Mr. Mills in order that the wrong persons should not be arrested under the indictments, and that Britton should point out the men that he meant

when he testified before the Grand Jury ; so that if he testified about a man by the name of Peter Jones, he could say, "That is the man I meant by Peter Jones ;" then that man should appear and give bail. That is the way. And then in cases where he was unable to identify the parties, bench warrants were subsequently issued. Mr. Walkey says that the bench warrants were made out for everybody before the indictments were presented, anticipating the presentation. He says he thinks he has the bench warrants now.

Q. In other words, no bench warrants were actually delivered to the officer whose duty it would be to arrest these men ?

A. I could not tell you that.

Q. Mr Walkley is there, and perhaps he can prompt you ?

A. Well, Mr. Goodrich, I don't care to have Mr. Walkley prompt me all the time; you are very kind and I appreciate it very much.

Q. During your official term, have you tried any person for gambling at Coney Island, under the indictments found in Mr. Catlin's term, if you remember ?

A. I cannot tell without looking at the books.

Q. You stated in your examination Saturday, as I remember, that only two cases were left over from Mr. Catlin's term, the rest having been nolleed ?

A. I cannot tell about the details.

Q. Can you tell by reference to your papers how many cases were left over from Mr. Catlin's term ?

A. Two policy cases, Mr. Walkley says. They were never tried.

Q. Nor have they been called to plead during your term ?

A. That I cannot tell.

Q. As far as you remember ?

A. I cannot tell you. I didn't try all the cases. I don't try all the cases. I try all the capital cases.

Q. What is the name of the person in your office who in 1884, 1885 and 1886 would have been detailed to serve bench warrants on the gamblers at Coney Island ?

A. Nobody.

Q. No specific person ?

A. No, sir.

Q. When you desire to serve a District Attorney's bench warrant to whom do you give it ?

A. To the Chief of Police or to the Sheriff or to a police officer who knows the defendant, generally.

Q. You could not give it to the Chief of Police for gambling at Coney Island, do you ?

A. We hold that we can. We think that we can.

Q. Do you know who went down with Mr. Britton when he went to point out the persons under indictment of June 30th ?

A. No, sir. I don't think I was here, Mr. Goodrich. My impression is that I was out of the city at that time for a day or so.

Q. Then there is no special deputy in your office who serves that kind of process ?

A. There is none. We tried, as I said before, to get one person detailed upon whom we could centre the responsibility ; we tried to get a police officer detailed by the department.

Q. I call your attention to the two indictments which were found on the 4th of June, 1883, one against Henry T. Delamater and the other against Abraham Delamater which were found during the official term of your predecessor ?

A. Yes, sir.

Q. Have you those cases in mind ?

A. I have in mind the fact that there were two cases of that kind.

Q. Those are policy cases, are they not ?

A. Yes, sir.

Q. You found them still untried when you came into office ?

A. Yes, sir, I did.

Q. Do you remember whether these persons were under bail at that time ?

A. I presume they were. I don't think General Catlin would have allowed them to go out unless they were on bail.

Q. Don't you remember that they were arrested and an examination had before a magistrate?

A. No, sir, I will state what I know of those cases.

Q. I am coming to that in a minute. Will you explain why these indictments were not pressed by you during your official term?

Q. I'll come to that in a minute. I just want to lay the foundation for it; will you explain why these indictments were not pressed by you during your term?

A. I don't know the names of either of the defendants and have no recollection of ever having seen them; but when I went into the office I took a book of General Catlin and looked over all the old indictments that were then pending and undetermined, and having no knowledge of the facts or circumstances of the cases, I asked General Catlin to post me in regard to the cases that he had left behind him, in order that I might press them intelligently; I knew nothing about them; coming to these two cases I asked him about them, and he told me those men had long since gone out of the business and abandoned it, and that everything they desired to be accomplished by the indictments—the destruction of the business, selling policy slips—had been accomplished, and for that reason I never moved.

Q. Didn't you know that these were old offenders?

A. I never saw them nor heard of them in my life, except from conversation with Mr. Catlin, and except as Comstock stated that they were old offenders.

Mr. Goodrich, you gave me notice to produce some complaints, and I here produce them; these are the complaints submitted by the complainant and the cases upon which he asks that warrants be issued; you will observe that none of them are sworn to.

Q. You have produced certain complaints, among them being the People vs. James E. Kelly, Michael Murray, Thomas E. Stow and Carl Fuller, which you say are not sworn to; it appears by these that the date is June, 1884; are not these the complaints upon which the indictments of June 30, 1884, were found?

A. Yes, sir.

Q. Can you give us the name of these persons ?

A. I presume the records of the Court would show.

Q. Do you mean were brought before Judge McCue for sentence ?

A. Yes, sir. Mr. Comstock notified me that they had been tried and convicted and not sentenced, and asked me to move, and I did move, and by reference to the records at that time I can give you the names and dates.

Q. And were these the persons for whose sentence General Catlin could have moved and abstained from doing so ?

A. That naturally follows, because I found them and did move them.

Q. Can you state how many such cases there were ?

A. I don't think there were very many.

Q. Were there several ?

A. My recollection of it is such that I am unable to answer with any degree of certainty, because it occurred just as I went into office and within a few weeks after I was elected.

Q. Mr. Ridgway, will you address to the Chairman of the Committee a note giving the names of those persons, being as careful in making the statement as if you were making it as part of your examination ?

A. I will do so ; yes, sir.

Q. And at your first convenience ?

A. Yes, sir.

Q. Have you made any reference to cases which were *nolle prossed* by General Catlin shortly before the termination of his incumbency ?

A. I only made reference as far as my submission of the list to you of all indictments found since 1881, under the direction of your subpoena. As far as that tabulated statement shows the disposition of indictments ; I have made none other that I know of.

Q. Have you satisfied yourself by records of your office that there were a considerable number of persons under indictment, the indictments against whom were *nolle prossed* shortly before you became District Attorney ?

A. If you will allow me to look at that list; shall I count them ?

Q. Will you listen to the question, and if the information you are about to communicate comes within the question, give me the names. Listen to the question: have you satisfied yourself by records of your office that there were a considerable number of persons under indictment, the indictments against whom were *nolle prossed* shortly before you became District Attorney ?

A. Yes, sir.

Q. Mention the cases ?

A. I find the night before I went into office, December 31, 1883, that the following cases were *nolle prossed*, on December 31.

Q. Give the name in each case and the offense.

A. Francis Speck, policy; John Shipley, policy; Simon Crier, policy; Henry Delamater, policy; Charles Strange, policy; Andrew McClellan, policy; Charles W. Smith, policy; Andrew McClellan, policy; Charles W. Smith, policy; Charles Strange, policy; Henry Delamater, policy; Abraham Delamater, policy; Samuel Crier, same offense; William Stiner, same offense; William Stiner, same offense; Abraham Delamater, same offense; Simon Crier, same offense; Simon Crier, same offense; John Shelter, same offense. That is all I found out the day before I went into office.

Q. Were there any other cases of a similar character *nolle prossed* shortly before that date ?

A. Yes, sir.

Q. Mention the names and state the offense ?

A. Edward R. McEvoy, same offense, December 29 ; William Lauer, same offense, May 4, 1883 ; Edward R. McEvoy, December 29, 1883 ; Andrew Nelson, June 23, 1883.

Q. Permit me to stop you. Are those the dates when the indictments were *nolle prossed* ?

A. Yes, sir.

Q. I would prefer to have you limit yourself in answering the questions to the cases *nolle prossed* in December ?

A. Yes, sir. Thomas Laird, December 26 ; Christian

Bauth, December 26; John L. Walker, December 22; James G. Roe, December 29; Edward Stubman, December 29; William Rose, December 29; Thomas Laird, December 26; same, December 26; Michael Carney, December 22; same, December 22; John McEvoy, December 29; William Stone, December 29; Jacob Conrady, December 29; John Funk, December 22; John Mangan, December 22; William Rose, December 29; Carl Fuller, December 22; Peter Vanderhoff, December 29; Catharine Vanderhoff, December 29; John Cummings, December 29; Walter Foster, December 29; Andrew J. Phillips, December 29. That is all.

Q. Mr. Ridgway, did you ever investigate the circumstances under which that large number of indictments were nolle prossed in the month of December, 1883?

A. Yes, sir; I was about to investigate the matter; soon after my attention was called to it; I went to General Catlin and asked him about it. He said they had been dismissed on motion before the Court. He informed me that the parties had gone out of business and were no longer breaking the laws. He dismissed them.

Q. When did this conversation take place?

A. It was some time afterward when my attention was called to it.

Q. Was it at the same time that he had the conversation with you regarding the two indictments that were laid over?

A. No, sir; I think it was before that. As soon as I went into the office I went over all the cases in the office and spoke of the different cases. There were one or two cases of homicide that were to be argued before the General Term.

Q. Was there any other class of cases than those coming under the gambling statute—and only of such do I speak—where so large a number of indictments were nolle prossed by the office of the District Attorney?

A. I am unable to state now, because this tabular statement only contains the gambling cases.

Q. Have you any recollection of having your attention

called to any other such cases except those you have named ?

A. No, sir ; I have no recollection now.

Q. What has been done by you, except having this conversation you speak of, toward investigating these cases !

A. Mr. Comstock stated that the cases had been improperly dismissed, and that the rights of the people had been betrayed by the dismissing of these cases by wholesale ; I had Mr. Shorter present the matter again before the Grand Jury, Comstock having sent us a paper to the effect above ; the paper was presented to the Grand Jury, but the Grand Jury refused to reindict ; so I am informed by Mr. Shorter.

Q. When did that occur ?

A. Comstock will be able to tell you that ; Mr. Shorter had charge of the Grand Jury then.

Q. Has the Grand Jury power to indict except upon the testimony of reputable men ?

A. Mr. Comstock made a written statement against General Catlin and sent it to the Grand Jury, asking that the Grand Jury indict General Catlin, but they refused to consider it, and dismissed it unanimously.

Q. I have heretofore refrained from mentioning anything about Mr. Comstock. You have taken occasion to refer to him many times. Now, I will have something to say about him ?

A. Very well, sir.

Q. Now I am going to bring Mr. Comstock's name prominently before you ?

A. I said nothing offensive of Mr. Comstock. I have said he made the complaint.

Q. Did Mr. Comstock, so far as it concerned this particular subject to which you have now testified, endeavor to accomplish two things ; the reindictment of the persons the indictments of whom had been nolle prossed, and also the indictment of General Catlin for doing this extraordinary thing ?

A. He did make both complaints.

Q. Was he earnest about it ?

A. I don't know.

Q. Did he see you upon that subject ?

A. I think he did once.

Q. Did he, to your knowledge, impress the subject upon your subordinates ?

A. I don't know what he did with them.

Q. If those persons were not reindicted and if no indictment went against General Catlin, can it be, so far as you know, attributed to any action or want of action on the part of Mr. Comstock ?

A. I think he exerted himself to indict General Catlin.

Q. Did he exert himself, and if not, what is the fact about his action in respect to reindicting these persons ?

A. I think he was desirous of having them reindicted, from the fact that he made the complaint.

Q. In an earlier part of your testimony I understood you to say that you were re-elected District Attorney, with a gambling plank in your platform. Will you be kind enough to tell me what you meant, exactly, by that statement ?

A. I have never made any such statement, and if you so understood it, I wish to correct you. I don't want you to go away with any such impression.

Q. Never mind me, but confine yourself particularly to stating what you meant in whatever you did say upon that subject ?

A. Mr. Goodrich asked me the question whether I did not believe there was a public sentiment against gambling. I said in return, that was the platform upon which the candidates stood last fall. General Tracy was nominated before me on a platform in which he pledged himself to obliterate pool selling from the county ; he said that was the issue. I never took issue with him ; there was no issue, because I agreed with him that the pool selling must go ; but I was elected ; that is, he promised to do that which I had already accomplished to a certain extent. In order to make an issue there must be two distinct opinions. He said that he was in favor of driving the pool selling from the county, and he pledged himself to prosecute it. There could not have been any issue between us, because I

was in favor of driving the pools from the county, and pledged with equal zeal, that I would drive pool selling from the county. It left no issue. It was simply a choice between two men.

Q. Do you think your explanation corresponds with your previous testimony upon that subject ?

A. If it does not I wish to correct my testimony to insert this last statement in lieu of anything I have said. I did not say that I ran on a gambling plank.

Q. Are you, yourself, conscious that this explanation differs from the previous statement to which you previously testified ?

A. No, I don't think that it differs. It is more extensive than the first; whether it differs in the main, I do not know; I don't believe it does.

Q. Was not the gist of your previous testimony that the unfriendly feeling to the enforcement of the gaming statute in this county was an important factor in a political election ?

A. No; we never made any such issue. They inaugurated an issue, which was a false issue.

Q. I assume that you did say, in substance, that the feeling antagonistic to gaming aided your election ?

A. No.

Q. And assuming that to be so, I want to understand from you, if such is the fact, how that could assist your re-election ?

A. If you so understood me you misunderstood me.

Q. Suppose the record says so, what then ?

A. But I made a public declaration against it; I said I was in favor of the enforcement of the law, and I pledged myself to enforce it. You see the great trouble was this: I have no interest in any race track; I am not a member of any racing association and never owned a horse; the issue was made by the gentleman against me who was engaged in raising horses for that purpose; that was the inconsistency of the position; probably it had a tendency to benefit me; that's all.

Q. There is placed in my hand, Mr. Ridgway, a docu-

ment that I will hand to you, and beg you to inform the Committee what it is?

A. (Examining the document). That portion of it I recognize as containing some of the language used in an answer that I filed with Governor Hill.

Q. In what proceeding?

A. In a proceeding instituted by Mr. Comstock to remove me from office.

MR. ARNOLD: There are some enthusiastic persons in this audience who insist upon giving evidence of their approval or disapproval of what witnesses may say. I want to say that this is very objectionable and offensive to the Committee, and I trust we will have no more of it.

BY MR. PARSONS: Q. In that answer did you use this language: "The charges so preferred (alluding to the charges made by Mr. Comstock in respect to this matter of gaming) were made the sole and only planks of the platform upon which the gentleman who was nominated against respondent appealed to the suffrages of the people of the County of Kings; and it was then asserted by an opposing press and re-echoed by the orators on the stump that this was the sole and only issue before the people?"

A. That is contained in my answer; yes, sir.

Q. Did you mean that Governor Hill from that should understand that you regarded that as the sole and only issue before the people?

A. No.

Q. You did not mean that?

A. I meant exactly what I said in that answer.

Q. Is that this: that it was the sole and only issue before the people?

A. It was dereliction of duty. Look and see if something is not said about the charges. These charges were published more than fifty times by an opposing press.

Q. About what?

A. The charges of dereliction of duty and failure to enforce these laws.

Q. What laws?

A. Laws which you have referred to here.

Q. What laws ?

A. Against poolselling.

Q. Against gaming ?

A. Against gaming ; these charges that I had failed to enforce the law against gaming were published more than fifty times by an opposing press and re-echoed upon the stump by the orators and made use of in the pulpits in the City of Brooklyn ; that notwithstanding that, the people did not believe the charges ; going before 101,000 people—a jury of that number—to submit these charges the people repudiated them by 13,000, and I wished to convey to his Excellency the idea that these charges had been made the basis of opposition to me ; that that had been published so that the public were thoroughly familiar with every charge those gentlemen made against me.

Q. Oblige me by informing the Committee how this explanation corresponds with your previous statement that all this indicated an unfriendly feeling or sentiment in the community to the enforcement of these laws ?

A. No, that is not it, sir.

Q. Is not that what you said when you were previously examined ?

A. No ; my answer was based on the falsity of the accusation ; that is what I based my answer on.

Q. Have you not stated this morning that your previous statement came from your being examined about the friendly or unfriendly feeling to you in the community for the enforcement of these statutes ?

A. I said Mr. Goodrich asked me this question : “ Don’t you regard a majority of the community opposed to the pools ? ” I said, by reference to the returns of the last election, I think the sympathy was the other way. That is what I said in that regard.

Q. Now, Mr. Ridgway, coming back to Mr. Comstock. Has Mr. Comstock made himself obnoxious to you ?

A. He most certainly has, sir.

Q. That is what I wish to show. Has he made himself obnoxious to you in respect to any other matter than his action relating to the enforcement of the gaming statute ?

A. Yes, sir.

Q. What was the other matter ?

A. Well, in the trial of a case before I was ever elected.

Q. What was the case ?

A. It was the case of a young boy who was charged with selling an obscene sleeve button. He was the only son of a widow in Brooklyn, and I defended him gratuitously. I thought that sending another little boy to buy that sleeve button from him for the purpose of sending him to the Penitentiary called for the severest denunciation that any lawyer could pour down upon him.

Q. When did this occur ?

A. I can't give you the date.

Q. How long before January 1, 1884 ?

A. During General Catlin's administration. He found the bill.

Q. Is there any other subject than the two to which you have now referred, in respect of which Mr. Comstock has made himself obnoxious to you ?

A. By personal contact with me ?

Q. I will give you the entire range of anything you know, or anything about which you heard ?

A. His attitude, his manner, the means that he resorts to to gain notoriety by persecution of people, the fact that reputable people have told me, distinguished men have told me that they would not believe him under oath—that they regarded him as a bad man—all these things coming to my notice of course formed a very strong impression on my mind that he was a man I needed to be very careful of.

Q. Coming back to the starting point, I want to ascertain whether all this action by Mr. Comstock, and referred to by persons who have spoken about him, relate to his conduct for the enforcement of the gaming statute, with the single exception of the sleeve button case that you have described ?

A. That all that gave me the impression against him, you mean ?

Q. Whether all this obnoxious conduct to which you have referred consisted in things done and not done by him about the enforcement of the gaming laws ?

A. I have not stated all; there are so many isolated cases in his life—

Q. I wish to classify them. I wish to find out whether Mr. Comstock has made himself obnoxious to you in respect of any other general subject of crime than the gaming statute—than crimes under the gaming statute?

A. I hardly know how to answer that question—whether he has made himself obnoxious to me in any other respect than his prosecution of offenders?

Q. Under the gambling statute?

A. I hardly know how to answer it.

Q. Have you had anything to do with Mr. Comstock except in the matter of prosecution for crime for the suppression of vice?

A. Not except when I have been compelled by law to have intercourse with him.

Q. Now, have you had anything to do with Mr. Comstock where his action has been for the suppression of vice, or the prosecution of crime of any other kind than that relating to the gambling statute?

A. No.

Q. Therefore, in my further examination of you about Mr. Comstock, I shall limit myself to his conduct for the prosecution of offenders against the gambling statutes. Will you kindly inform the Committee whether you have knowledge or information that this action on the part of Mr. Comstock has made him obnoxious to other persons who have spoken to you about him?

A. Oh, yes, hundreds of people have spoken to me about him.

Q. You have mentioned this morning a number of gentlemen: Leonard Jerome, Perry Belmont, Belmont Purdy, Wright Sandford and others; have any of these gentlemen spoken to you about Comstock?

A. I think they have, all; yes, sir.

Q. Did they all indicate that Mr. Comstock had made himself obnoxious?

A. From the general tone of their conversation I inferred that; they talked as if he was a public nuisance.

Q. I infer from your testimony that you sympathize with that feeling ?

A. Oh, strongly, sir.

Q. Were any of these gentlemen to whom you have referred gentlemen who can permit or prevent gambling on these race courses, in Kings County ?

A. I don't know.

Q. What do you know about their ability to permit or prevent gambling ?

A. I know they all are or were members of the Coney Island Jockey Club ; at least they were at one time.

Q. When these gentlemen complained of Comstock's obnoxious conduct in connection with this matter of gambling, you sympathized with them ?

A. I sympathized with them, undoubtedly.

Q. When did you begin to sympathize with these gentlemen on whose race courses gambling goes on uninterruptedly ?

A. I don't know in what sense you mean sympathy.

Q. I mean the same sense in which you yourself a few minutes ago used the term ?

A. I sympathize with them on the question of their feeling against Comstock.

Q. When did you begin to do so ?

A. Always ; ever since I have known him ; he lived in the neighborhood where I was brought up ; he has always been a nuisance—ever since he has lived in Brooklyn.

Q. I mean to be more liberal in dealing with you than Mr. Goodrich, and I mean to permit you to say anything you desire on any subject ; but I now ask you to come back to the inquiry as to when Mr. Comstock first made himself obnoxious with respect to the violations of the gambling laws ?

A. When I first heard that he was moving in that direction.

Q. When was that ?

A. Some years ago.

Q. What time was it ?

A. I can't define the time.

Q. Was it before you became District Attorney?

A. Yes, sir; a long time.

Q. When first did you become sympathetic with the proprietors of the race course?

A. I have never been sympathetic with them in the sense which your question implies.

Q. When did you first become sympathetic with them in the sense in which you yourself this morning admitted the sympathy?

A. Ever since they organized the track at Jerome Park.

Q. How many years ago was that?

A. Ever since I have known of the existence of tracks.

Q. Have you a clear apprehension of what occurred about the McDougal indictment, to which Mr. Goodrich called your attention?

A. Yes; so far as I have stated—so far as my connection with them is concerned.

Q. Have you any doubt that as a result of the proceedings against McDougal somebody should have been convicted?

A. Yes, sir.

Q. Who did you think should have been convicted?

A. Well, I don't think the evidence—

Q. Never mind about the evidence; I want to know who you, as District Attorney, charged with the prosecution of those persons thought should be convicted?

A. You say never mind the evidence; the evidence is the only guide we have to convict or acquit upon.

Q. Thank you; I happen to know that; but what I wish to know is something entirely different. I wish to ascertain who you thought should be convicted for the offence against the gambling statutes under the name of McDougal?

A. Well, when the indictments were first found, I thought both ought to have been convicted.

Q. Did your mind change in that regard?

A. No; no, sir.

Q. Has either been convicted?

A. Yes, sir.

Q. Which one?

A. Dougal McDougal.

Q. When?

A. Convicted December 18, 1884, in the Court of Sessions.

Q. What is the present situation of his case?

A. It is pending in the Court of Appeals.

Q. Under the arrangement in the Kelly case?

A. Yes, sir.

Q. Has the same person been indicted again?

A. I do not know, sir. I do not find his name as having been indicted again.

Q. Has the other man by the name of McDougal been convicted?

A. That is the case of the man who was tried and acquitted; the case where the officer swore he had never seen him.

Q. When did that occur?

A. When he was tried; the time when Mr. Comstock's officers gave testimony; he was tried December 15, 1884.

Q. Were you in Court on that day?

A. I was, and prosecuted him.

Q. Was the result of what then occurred, that a man who had been indicted upon complaint of Mr. Comstock and was tried by you, as District Attorney, was acquitted?

A. No, sir; he was not indicted on complaint of Mr. Comstock. He was indicted on the complaint of Joseph E. Britton and George E. Oram.

Q. Now I ask whether the result of the occurrence was that a man tried by you in pursuance of complaints of Mr. Comstock or his officers was acquitted?

A. Yes, sir.

Q. Have you not used that circumstance in support of an accusation that you have made that Mr. Comstock or persons in his employment were guilty of blackmail?

A. One of the circumstances.

Q. When proceeding with the trial of that man who was then acquitted, did you have conversation about the McDougal case with Mr. Comstock or his officers?

A. A few minutes before the case was called in the court-

room Mr. Comstock came to me and told me he was not the man.

Q. Then you went on and tried him, did you?

A. Yes, sir.

Q. And naturally he was acquitted?

A. Yes, sir.

Q. That humiliated Mr. Comstock, did it not?

A. I don't know.

Q. Didn't you intend that it should?

A. No, sir.

Q. Why did you go on and endeavor to convict this man upon testimony of Mr. Comstock's officers when Mr. Comstock, just before the commencement of the trial, told you he was not the man?

A. Because I was satisfied he was the man, and that they had made an arrangement with him by which they would not testify against him.

Q. Is that the way you conduct the office of District Attorney, to put upon the stand to secure conviction witnesses whom you suppose to have been arranged with, so that they won't secure conviction?

A. No, sir.

Q. Why did you do it in that case, then?

A. The man pleaded not guilty, and claimed to be innocent, and demanded a trial,

Q. And you gave it to him?

A. We gave it to him because we wanted to show more especially in that case whether these two men, who had testified against him and who identified him when he gave bail, and who afterwards identified him in court, would have the temerity to go on the stand and commit wilful and deliberate perjury. We were satisfied that they have such temerity, and would not hesitate to do it, hence our lack of confidence.

Q. Were you present when they identified that particular man?

A. I was present at the District Attorney's office when they said that that was the man.

Q. He was one of two?

A. There was several around.

Q. Were there not two ?

A. There was Dougal McDougal and John T. McDougal. We had convicted Dougal McDougal, and the one left was John T. McDougal, and he was placed on trial.

Q. Was it impossible that Dougal McDougal, or the person indicted by that name, should be guilty of two offenses ?

A. Not impossible to be guilty of many.

Q. How did that affect the earlier indictment would it remove him from the possibility of being tried on the other ?

A. It would remove him from the probability, because there were two Dougal McDougals and John T. McDougal; one being convicted left the other to try.

Q. Who were the bail men for the McDougal who was acquitted on the trial ?

A. I do not know.

Q. How often have you, since that occurrence, alluded to it in a way that was hostile to Mr. Comstock ?

A. Every time I was questioned on the subject, when brought to my notice, when he said I put the wrong man on trial.

Q. To which of the gentlemen whom you said you have been in sympathy with have you communicated that circumstance ?

A. I don't know that I have communicated it to any of the gentlemen whose names I have mentioned.

Q. Any to your knowledge ?

A. No, sir.

Q. Can you tell whether you had any conversation with any of the gentlemen to whom you have referred ?

A. I haven't any recollection ; I told it to Mr. Moak, who was District Attorney of Albany, and Judge Horace Russell, of New York—people like that.

Q. Do you recollect that in your earlier testimony you referred to a conversation, which you stated occurred in the Grand Jury room, with Leonard W. Jerome ?

A. No, sir ; in the ante room of the Grand Jury room.

Q. When did that conversation take place ?

A. When Mr. Jerome was a witness.

Q. I ask you to give the date as nearly as you can ?

A. I cannot, only by the minutes of my office.

Q. From your personal recollection of the time, was it two or three years ago ?

A. My impression is it was in 1886, some time.

Q. Were you at that time personally acquainted with Mr. Jerome ?

A. Yes, sir.

Q. How long have you been personally acquainted with him ?

A. I have known Mr. Jerome, I suppose, ten years to bow to him and speak with him ; not intimately acquainted with him.

Q. Is he the gentleman after whom Jerome Park is named ?

A. I think he is.

Q. Is he a member of associations taking part in the racing of horses ?

A. Yes, sir.

Q. Is he prominent in these race courses in your jurisdiction, or either of them ?

A. I think Mr. Jerome was president of the Sheepshead Bay ; that was the purpose the Grand Jury had in bringing him ; they asked him to prove that ; and possibly for some other matters about which I am not at liberty to state, because they were secrets of the Grand Jury.

Q. Did the Grand Jury direct you to call him or did you call him yourself ?

A. They directed me ; ordered me to issue the subpoenas. They give me a list and say : " Mr. District Attorney, have the following witnesses here. "

Q. I wish you to state the conversation in the ante room of the Grand Jury that you had with Mr. Jerome ?

A. There was no conversation between Mr. Jerome and myself. Mr. Jerome was there, Wright Sanford, Mr. Lawrence and Mr. Heckscher, and I think some of the other gentlemen who answered in obedience to the subpoenas. You see the Grand Jury room is at the top of the building. There is only one entrance to the place, and everybody go-

ing in there can be seen. That is the reason why most people know what is going on in our Grand Jury room.

Q. Please come down to the conversation, Mr. Ridgway?

A. He found some fault with—

Q. What did he say in finding fault?

A. I understood him to say substantially this: "These men," pointing to the emissaries of Comstock, "these men can continue their prosecution just as long as they see fit; they will not get a single dollar out of the Coney Island Jockey Club for blackmailing purposes; we don't propose to pay one dollar." That is what he said.

Q. What did you say?

A. I did not say anything.

Q. Did you have no conversation on that occasion with either of these gentlemen?

A. I don't recollect anything; I may have apologised for keeping them waiting so long; but we had to take up the police cases first under the rule.

Q. Have you spoken of Mr. Comstock as a blackmailer?

A. In what sense?

Q. In any conceivable sense that that term admits of?

A. I had a conversation with Joseph A. Britton, his chief man; he called on me soon after I went into office, and we had a conversation about Mr. Comstock; Mr. Britton characterized Mr. Comstock as a scoundrel and a rascal, and said that if he had sufficient confidence in me that I wouldn't betray him, he would give me some information that would result in sending Mr. Comstock to State Prison; he asked me if I was a Mason and I said I was not; he said he would see me again; I said, "you need not do so, as I do not care to know anything about Mr. Comstock; especially if you are in business with him and have been as false to him as you have this morning." I said I did not care to have anything more to do with him; that I didn't want him to betray his master.

Q. When did this conversation take place?

A. I had been in office two or three weeks.

Q. Mr. Ridgway, did you understand me to ask for that conversation?

A. Yes, sir; I understood you to ask me if I had called him a blackmailer.

Q. Have you ever called him a blackmailer?

A. I have in this way; that Mr. Britton had given me sufficient information to justify me in this belief.

Q. I do not assume that you do not want to give a direct answer. I did not ask you about your belief or your conversations, but whether or not you said so.

A. No; I never called him a blackmailer in so many words.

Q. Have you said anything that was tantamount to that?

A. I have said that I believed he participated in these extortions.

Q. When?

A. At different times.

Q. From whom did you obtain information upon which you made those statements?

A. Oh, generally; it was generally reported around that pools rooms in New York had to pay a stipend every week to Comstock, and another thing was this; some time ago, when the policy shops in New York were raided, entries were found in very many of the books of account kept by the policy dealers entries "A. C," cash, so many dollars, or "A. Comstock, cash," showing amounts paid every week.

Q. Now, Mr. Ridgway, I am really glad to have you say all this. But I was—

THE WITNESS: I don't assert these as facts; merely information upon which I based my conclusions.

Q. From whom have you received information upon which you base a statement that he is a blackmailer?

A. From whom?

Q. Yes; from whom did you receive the information—give the names; give the name of one?

A. An informant once went to the president of your society and gave him the information.

Q. Give me the name of that informant?

A. He was the Chief of the Secret Service of the United States Government, Mr. Drummond.

Q. Mr. Shepard makes a suggestion which leads me to think that perhaps you misunderstood me, or I you; I asked for the name of your informants and you mentioned Mr. Drummond, and I assume that he gave you information on the subject?

A. He certainly did, or I would not mention his name.

Q. Can you mention anybody else?

A. On the subject that you have referred to?

Q. Upon whose information do you charge Mr. Comstock with being a blackmailer?

A. I cannot recall any names just now.

Q. Was there such a conversation between you and Mr. Drummond on more than one occasion?

A. I only recall one; he came over to get a prisoner that he had for counterfeiting, to transfer him to the United States Court.

Q. You referred in one of your voluntary statements a moment since to books, and I inferred that they were books kept by gambling houses, upon which appeared "A. C." or "A. Comstock," as indicating that money had been paid to him?

A. Yes, sir.

Q. Has any occurrence of that kind taken place, so far as you know or have been informed, in Kings County?

A. No, I do not know of any.

Q. Is blackmailing a crime?

A. Yes, sir.

Q. How long has it been a crime?

A. I cannot tell how long.

Q. Has it been a crime during all the time that you have been District Attorney?

A. Oh, yes.

Q. Whose duty is it to prosecute for blackmailing in this jurisdiction?

A. The duty of the District Attorney upon complaint.

Q. Where the District Attorney has reliable information about the commission of crime, does not that justify and require proceedings by him?

A. Yes, whenever he has the information; but you won't

get one of these people that pay the money to come forward and testify to it.

Q. I assume that you never have taken proceedings against Mr. Comstock, obnoxious to you as he is?

A. No, sir; I have never made any effort in that direction.

Q. Where did you get the information about books kept by gambling places in New York upon which appeared the name or initials of Mr. Comstock?

A. The public press. I think it was the report of a judicial proceeding or some investigation. I have forgotten now.

Q. Did the conversation with Mr. Jerome, on the occasion to which you have referred, lead you to the opinion that Mr. Jerome did wish or did not wish criminal prosecution against the club of which he was the president or any of its members?

A. He said that he was indifferent, because David Dudley Field and Mr. Bowers, of Platt & Bowers, had examined the system very thoroughly, and had given them a written opinion that it was not a violation of the law, and that they could use it.

Q. I think you have stated previously that if such an opinion were given, your opinion differed?

A. I differed, of course.

Q. What did you ever do—I mean you, personally, or your subordinates, either of you or altogether—in connection with the charges by Mr. Comstock or his society, towards procuring an indictment against these gentlemen?

A. We presented the matter to the Grand Jury; the Grand Jury voted at first--

Q. I only ask you for fact; perhaps I have no right to ask you how the Grand Jury voted.

A. I was about to state inadvertently then. We presented the matter to the Grand Jury, all the facts; we presented the fact that the corporation existed, its corporate title, where it was territorially situated, the names of its officers, its executive committee, its board of directors, its immediate supervision of the track itself, and then showed what we claimed to be a violation.

Q. If I understand you correctly, the opinion which Mr. David Dudley Field and Mr. Bowers gave proceeded upon the same state of facts as those which are the foundation of your opinion. Is not that so?

A. Yes, sir.

Q. Therefore, whether this was or was not an offense was a question of law, was it not, the gentlemen admitting the offense?

A. Yes, sir; it was purely a question of law.

Q. This, then, was the situation, was it not: that there was an admitted state of facts upon which you were of the opinion that a crime had been committed; is that so?

A. Yes, sir.

Q. Then the Grand Jury needed no evidence, did they? It was a pure question of law upon a state of facts conceded by the defendants?

A. Of course, the Grand Jury only hear one side of the case anyhow. There is no dispute as to the facts, unless witnesses contradict each other.

Q. In this case the accused insisted upon the same state of facts upon which, in your opinion, a crime had been committed?

A. Yes, sir; there was no dispute of the facts in this case, except, perhaps, in one instance on the trial. While they did not concede the facts in the formal way of coming in and saying, "We concede the same state of facts to exist," yet it was at the same time conceded.

Q. It being your opinion that, upon a conceded state of facts a crime had been committed, and the Grand Jury having the right to find an indictment upon being informed of that conceded state of facts, what did you do to give them that information?

A. What did I do?

Q. Didn't you understand that to be asked?

A. I subpoenaed the witnesses and personally appeared before the Grand Jury and examined the witnesses, and reduced the testimony, or procured it to be reduced, to writing in the minutes of the Grand Jury.

Q. Did you make out the state of facts?

A. Yes, I made out the state of facts and submitted it to

the Grand Jury, and consulted with Judge Moore upon the question.

Q. Do you remember the foreman of that Grand Jury by name?

A. No, sir; I do not.

Q. Do you remember the name of any member of that Grand Jury?

A. No, sir; I can easily find out by looking over the list.

Q. Do you happen to remember whether Mr. George A. Seely was the foreman?

A. No, sir; Mr. Seely, I can state positively, was not the foreman of that Grand Jury; he was the foreman of the Grand Jury which Mr. Sanbern served on.

Q. Will you find the name of the foreman of that Grand Jury, and also the month for which that Grand Jury served, and put that in the same note to the chairman which you have been previously asked to write?

A. Yes, sir; you want the names of those men that were arraigned before Judge McCue upon motion for sentence, where I found judgments of conviction pending after I entered office?

Q. Yes?

A. And the name of the foreman of the Grand Jury, before which Leonard W. Jerome testified, and the Grand Jury that indicted the Coney Island Jockey Club as an association; is that the one?

Q. You are right as to the second statement, when Mr. Leonard W. Jerome was examined as a witness — I mean the foreman of that Grand Jury to whom you presented that case?

A. Yes, sir; I will find those out.

MR. PARSONS: Now, Mr. Ridgway, if there is any statement that you wish to make, to clear up or explain anything which has been said by you to-day, or in your examination up to now, I shall certainly be very glad to give you the opportunity.

BY MR. CUTLER: Q. I desire to draw your attention,

Mr. Ridgway, to a matter which it may be necessary for you to explain in regard to the testimony given by Mr. Sanbern with reference to advice given by you to the Grand Jury?

A. I recollect personally attending before that Grand Jury, as we alternated in our office in attending before the Grand Jury. As to Mr. Sanborn, I recognize his face as having been a member of that Grand Jury.

Mr. Sanbern is mistaken when he says that I told him that the effect of an indictment against the Sheriff for failure to arrest would be the vacation of his office and the forfeiture of all rights and privileges as a citizen. He is mistaken in that. The statement I made to the Grand Jury was that if he was indicted for bribery—corruption in office—that he forfeited his office. That is what I said; not that if he failed to arrest these people he would forfeit his office. And if Mr. Sanbern formed his conclusion upon that, or if it was his intention to ply me with that question, why then I misunderstood the question. Because a District Attorney wouldn't be such an ass as to make a statement on a question of law so palpably wrong, before a body of people, who, before they left the room, would consult and take counsel on that question.

By MR. PARSONS: Q. Does the District Attorney make statements of questions of law before the Grand Jury?

A. Very seldom.

Q. Does he not when they are in doubt as to the law?

A. Yes, sir; and then always refers them to the Court; the District Attorney is asked the question, if they find such and such facts, what crime has the man committed! and the District Attorney then tells them.

Q. Is there any objection to my asking you whether you gave that sort of advice to the Grand Jury which failed to indict Mr. Jerome and his club?

A. No, sir; I did not give the advice.

THE WITNESS: Allow me to call your attention to this: Some question was raised as to whether I had expressed a willingness to prosecute people or not upon complaints. September 19, 1884, I received a letter from Mr. Com-

stock in the morning, telling me that he had information of violations of law down at Sheepshead track, and that they were about to be repeated that day. I wrote him this letter immediately upon the receipt of that letter, bearing upon the question as to the disposition to do right. The letter is as follows :

THE WITNESS : In reply to that I received a letter from Mr. Comstock that day in which he said he refused to go to the town of Gravesend to make any complaint.

BY MR. GOODRICH : Q. Were the justices of the town of Gravesend, before whom you ordered him to appear, the four gentlemen who, with Mr. McKane, comprised the five boards, executive, judicial and financial, of the town of Gravesend ?

A. I presume so ; they are Justices of the Peace there.

MR. GOODRICH : Yes.

THE WITNESS : Well, is that a reason ?

BY MR. ARNOLD : Now, I agree with you, Mr. Ridgway, as to the duty of a prosecuting officer to exercise a wise and possibly also a merciful discretion in the presentation of persons for indictment to a Grand Jury who technically are guilty of offences, presuming that in their cases there are strong circumstances in mitigation of their offense. But I am not so sure of the wisdom or the right to exercise any such discretion after trial, conviction and sentence ; and I would like to know from you how many persons who have

been tried, convicted and sentenced for offenses other than gambling during your administration here are now abroad on parole with your consent?

A. I could not tell you that without reference. There may be a few; very few of them; young boys that are out. I convicted five the other day for assault; they are at large.

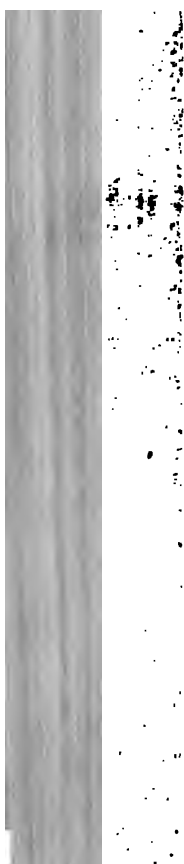
Q. I think it nothing more than fair to you that you should have an opportunity to state whether you have exercised that discretion in any other cases than gambling?

A. There have been some cases where we exercised it where we thought—

Q. Could you give the Committee the opportunity to judge by reference to the books, so that we can find out how many cases there are; I mean after sentence?

A. I don't know; I will look it up and tell you.

Adjourned to Friday, March 25, 1887, at ten A. M.



COMMON COUNCIL CHAMBER,

BROOKLYN, N. Y.,

March 25, 1867.

Met pursuant to adjournment, all the parties being present as stated heretofore.

The Chairman announced that the Committee were ready to proceed.

Chester B. Lawrence being duly sworn and examined as a witness, testifies :

MR. GOODRICH : Mr. Chairman, we suspend the examination of Mr. Ridgway, because he sends me word that he is engaged in some trial, and I have sent for him to see whether he cannot attend without great public inconvenience ; and until I get that answer I will continue the examination of other witnesses.

BY MR. GOODRICH : Q. Mr. Lawrence, you are a resident of the city of Brooklyn, and a merchant in the city of New York ?

A. I am.

Q. Were you the clerk of the Grand Jury of October, 1886 ?

A. I was.

Q. You had the subject of gambling under consideration in that Grand Jury, had you not ?

A. We did.

Q. At one stage of the proceedings, was it necessary for you to have the advice of the District Attorney in regard to the effect of an indictment upon the sheriff ?

A. It was given without our requiring it, I believe.

Q. Were you present when Mr. Ridgway came before the Grand Jury ?

A. I was.

Q. You were clerk of that Grand Jury I believe ?

A. I was clerk.

Q. Will you state what was said to Mr. Ridgway, and what answers he made in regard to the indictment of the Sheriff?

MR. GREENE: Was this gentleman a member of the Grand Jury?

MR. GOODRICH: He was the clerk of the Grand Jury.

MR. GREENE: But as a member of the Grand Jury he has taken an oath. What is the grand jurors' oath?

MR. GOODRICH: To keep the counsels of the Grand Jury room a secret. I don't propose to have the witness trespass in any way upon his oath.

MR. GREENE: It seems to me that you are requiring almost perjury upon the part of the witness.

MR. GOODRICH: I don't so regard it. I can only say that the counsel of the Committee have had that question under consideration and they do not believe that it is at all within the purview of the oath.

MR. GREENE: That is something I never saw before.

THE WITNESS: May I ask the question: In the counsel of the Grand Jury among themselves—is what the District Attorney volunteers to the Grand Jury as legal advice a part of the consultations of the Grand Jury? Of course I can't proceed on that until I know.

MR. GOODRICH: Counsel of the Committee are unanimous in the opinion that the testimony in regard to the advice of the District Attorney to the Grand Jury is not within the purview of the oath.

Q. I will repeat the question: Will you state what was said to Mr. Ridgway, and what answers he made in regard to the indictment of the Sheriff. You may limit it to what Mr. Ridgway said to your Grand Jury?

A. In substance Mr. Ridgway told us that to indict the Sheriff was a very dangerous thing, and very unjust to the Sheriff; that if we indicted the Sheriff, that, then and there, he would cease to be Sheriff, whether under the indictment he was found

guilty or not ; then we asked him specially a week afterwards ; and Mr. Ridgway told us the same thing, and he tried to find the law, and could not find it.

Q. I point your attention, Mr. Lawrence, to the distinction between conversation in regard to an indictment and conversation in regard to a conviction under the indictment, and ask you as to which Mr. Ridgway advised ?

A. The indictment.

Q. Have you no question in your own mind upon that subject ?

A. Not at all.

Q. Is there any circumstance which emphasises that belief of yours in the memorandum which you subsequently made ?

A. How do you mean ?

Q. Did you make any memorandum on the question ?

A. I don't remember.

Q. You don't know whether you did or not ?

A. I do not ; I have forgotten now.

Q. You say he came before you a week after the first occasion ?

A. Well, some days.

Q. Some days after the first occasion ; and he acted in response to a request to point out the law upon that subject to the Grand Jury, did he ?

A. He did.

Q. Did he point you to any such law ?

A. Not that we could see anything in it.

Q. Did he point to any law ?

A. Well, he read some law which I didn't think applied at all.

Q. The law which he read did not apply to the question of indictment at all ?

A. Not in my judgment.

Q. What did he say would be the effect of an indictment against the Sheriff ?

A. Suspend him entirely from office ; remove him from office completely.

Q. The indictment itself ?

A. The indictment itself.

Q. Did he speak of the effect of the emoluments of the Sheriff ?

A. Everything would cease, he said.

Q. Did he speak of the disfranchisement of the Sheriff by reason of the indictment; do you remember anything in respect to that ?

A. I don't remember.

Q. The subject under consideration at that time, the general subject about which he was advising you was the effect of an indictment upon the Sheriff, in connection with gambling, pool selling at Coney Island, was it not ?

A. That is what he advised us on.

Q. Did he speak to you ? I am not asking what he said. Did he speak to you about the indictment of the Sheriff in connection with pool selling at Coney Island ?

A. That is it.

Q. The question about which the District Attorney advised you was the question of the failure of the Sheriff to do his duty in connection with pool selling at Coney Island and not in regard to bribery; am I right ?

A. Yes, sir.

Q. The question of bribery of the Sheriff was not raised in his original advice to you ?

A. I remember nothing of that kind.

MR. GOODRICH : That is all.

George W. Seely, being duly sworn and examined as a witness, testifies :

By MR. GOODRICH : Q. Are you a resident of the City of Brooklyn ?

A. Yes, sir.

Q. You were the foreman of the Grand Jury of which Mr. Lawrence, the last witness, was clerk ?

A. I was.

Q. Do you remember the fact that Mr. Ridgway came before you and gave advice ?

A. He did on several occasions.

Q. Upon this occasion did he give you any advice in regard to the effect of an indictment upon the Sheriff ?

A. Well, when he was there first it was in regard to jail cases, and cases of that kind.

Q. Well, pass that.

A. We next took up the authorities—

Q. Never mind what he took up then?

A. Well, he was there and he gave us advice.

Q. That is all. I don't ask you to disclose anything you were doing. I am only asking you about the advice which the District Attorney gave to the Grand Jury, and limit yourself to that?

A. You mean advice in regard to the Sheriff?

Q. Yes. Not what you asked him. What he said to you?

A. Well the question was brought up in regard to the investigation of pool selling, and I would like to make a statement in regard to what was done there, if I can.

Q. I don't think the Committee will permit you to do that. Mr. Seely.

MR. GREENE: The Committee has no objection except this, that you took an oath that you would not do it.

THE WITNESS: Exactly so; I understand that; what question do you want me to answer?

Q. I want you to say what District Attorney Ridgway said to you when he advised with you in regard to the effect of an indictment upon the Sheriff?

A. He said that he would be disfranchised and would lose all emoluments of the office, and things of that kind. I don't exactly remember all the words.

Q. Did he speak of this in connection with an indictment of the Sheriff in connection with pool selling?

A. The word indictment was used, yes, sir.

Q. I ask you to be specific in your statement of whether his advice related to indictment of the Sheriff, or conviction of the Sheriff?

A. Indictment of the Sheriff.

Q. Have you any doubt of it?

A. Well, I am pretty positive of it.

Q. The very fact that you say, "I am pretty positive of it," leaves the question whether you are in doubt or not

an open question. I ask you whether you are able to state positively that the subject was the subject of indictment?

A. Well, as I stated, he said that he would be disfranchised and he would lose all emoluments of the office.

Q. Under what circumstances?

A. If he was indicted.

Q. Mr. Seely, did you, after you left the Grand Jury room, consult with regard to the advice which the District Attorney had given you, or talk with any person outside of the Grand Jury room?

A. I spoke to a lawyer about that matter, yes, sir.

Q. You got advice, you say, from counsel in regard to the question about which the District Attorney had advised you in the Grand Jury room?

A. I did.

Q. What was that advice?

A. Do you want the exact words?

Q. As near as you can give them.

A. Well, he thought that I had made a great mistake when I asked him the question, or else that Mr. Ridgway hadn't made any such remarks.

Q. Well, can you be a little more specific. Did you state to that lawyer that Mr. Ridgway had advised you and the Grand Jury to the effect that an indictment upon the Sheriff would be his disfranchisement, his suspension or removal from office?

A. I did that to satisfy my own mind. I believe I had a right to do that.

Q. After that, outside of the Grand Jury room, did you communicate this counsel's advice to any of your fellow members—outside of the Grand Jury room?

A. I don't think I did, unless while we were on duty there; that is, at different times—

Q. No, I am not asking for that?

A. Nothing outside of that, that I remember.

Q. Were you, in consequence of the advice you had thus received from counsel outside, induced to recall District Attorney Mr. Ridgway for further advice on the questions?

A. I will state that he came there before the Grand Jury again.

Q. Please don't state that now. Did Mr. Ridgway come before the Grand jury at your request?

A. He did. We was requested —

Q. Please don't state what you were requested to do. I am limiting you strictly to Mr. Ridgway's advice to the grand jury?

A. He did.

Q. Now what did he say when he came the second time?

A. We asked him the question over again, and he said — admitted what he told us first was facts.

Q. And insisted upon it, do you mean?

A. Yes, sir; and stated he would show us the law.

Q. Very well. Did he show you any such law?

A. He brought up the law as he contended, but we failed to understand it as he did.

Q. Do you remember what law he brought up?

A. I could not now, no, sir.

Q. Did he show you any law which sustained his position that an indictment would remove the Sheriff from office, or suspend him, or disfranchise him?

A. I didn't look at it that way.

BY MR. CUTLER: Q. Mr. Seely, just one remark. In response to a question at the last hearing the District Attorney testified that the statement made to the grand jury was, that if he (the Sheriff), was indicted for bribery, corruption in office, that he forfeited his office. Are you willing to say that that is not what the District Attorney referred to in the statement that he made to the grand jury?

A. I don't think there was anything in regard to bribery. I think it was in regard to poolselling at the different race tracks.

Q. Are you quite sure that he did not refer to bribery and corruption in office?

A. I am quite sure.

Q. You are willing to state that the statement made by the District Attorney didn't embrace the whole truth?

A. As far as I can remember.

Q. Well, are you positive about that?

A. Pretty positive; as far as I can remember. I don't remember anything of the kind. He might have said it; a good deal was said there.

BY MR. GREENE: Q. What did the laws he showed you relate to?

A. Well, I can't remember. He brought the law up there.

Q. Did he show you the law that if a public officer was indicted and convicted of a felony that he was thereby disfranchised, or might be disfranchised, or impeached, or what was it?

A. I couldn't state now what it was. I know it didn't refer to the indictment at all. That was the question we had in our minds, but that didn't show it.

Q. Didn't he show you a law that if an official had been impeached and removed from office that thereafter he might be disqualified from holding any other office?

A. I don't think he did. I can't remember it.

Q. You can't remember it?

A. No, sir.

Q. Can you remember whether he used the word "conviction" or the word "indictment"?

A. The word indictment was used.

Q. You are sure he didn't use the word "conviction" at all?

A. I am very sure of that.

Q. Why are you sure of that when you can't remember that he didn't use the other word?

A. In regard to the conviction, anybody knew that the conviction of a man would disqualify him. I supposed that if a man was convicted that settles it.

Q. That is reasoning about it. But why is it your memory is better upon that subject than it is upon the other subject, when you can't remember whether he used the word "impeachment" or not?

A. I don't know why, but I don't remember it.

Q. You have talked the matter over with counsel once

or twice about whether the word "indictment" was used?

A. Yes, sir.

Q. And that impressed it upon your mind that the word "indictment" was used, as distinguished from "convicted"?

A. Yes, sir.

Q. And you never thought of it until counsel talked to you about it?

A. In the room, yes, sir; I thought it very queer.

Q. You never thought of the distinction until your attention was called to it by counsel?

A. No.

Q. The Sheriff was not a defendant before the grand jury, but a witness?

A. He was a witness.

Q. Do you know whether the District Attorney instructed the Sheriff, or did you hear him, that he must stop any violations of law?

A. Yes, sir; he did.

Q. Do you know whether the Sheriff obeyed those instructions or not?

A. I think he did. That is the reason I want to make this statement.

Q. Do you know whether he carried out these instructions? was the result of those instructions that the violations were stopped?

A. Yes, sir. Those were his instructions by the District Attorney, that the present grand jury meant business, and that unless the violations of the law in regard to gambling were prohibited in the future from the different race tracks, that he alone would be held responsible. That is the words as near as I can remember.

Q. That he said to the Sheriff?

A. He said it in the grand jury room, I think; or else told him outside and then told us that he told the Sheriff so.

MR. GOODRICH: I haven't any objection to Judge Greene making any statement, because I believe that this grand jury was earnestly desirous of discharging its duty.

MR. GREENE. I haven't any doubt of it.

MR. GOODRICH. And destroy pool-selling at Coney Island?

MR. GREENE. Yes, sir.

BY MR. PARSONS: Q. You spoke about taking advice from some outside counsel upon the subject of the advice which the grand jury had received from Mr. Ridgway?

A. Yes, sir.

Q. When did you consult this outside lawyer?

A. I think it was the day that matter was brought up before the grand jury; that is, that night or the night after; I couldn't state positively which.

Q. Now I understand you to say, in answer to Judge Greene, that at the time you were aware that the conviction of the Sheriff would have resulted in such consequences as Mr. Ridgway gave you to understand?

A. It came to my mind that way.

Q. Was it in your mind that such consequences would result from a mere indictment?

A. The statement, as I stated, had been made by the District Attorney, and I thought it rather queer law.

Q. You mean such statement was very queer if it had reference to indictments?

A. Yes.

Q. Was it then upon that subject and upon that very day you received this advice—this talk from this outside lawyer?

A. It was that day or the day after; I couldn't state whether it was that date or not. It was the evening of that day, or the following day.

Q. Has a distinction been in your mind from that day to this?

A. It has, and had been before, but I merely wanted legal advice.

Q. When was the conversation with the counsel of the Committee to which you have just referred?

A. You mean with the District Attorney?

Q. No. In answer to Judge Greene you have referred

to an interview between you and counsel, and I understood you to mean counsel of Committee?

A. No, no. This gentleman I called on myself personally had nothing to do with the Committee.

Q. You mean to say that you never saw either of the counsel upon the Committee upon that subject?

A. No, sir.

MR. PARSONS: Judge Greene, was it your impression that it was the advice with us that he referred to?

MR. GREENE: No, sir. He said he had advised with counsel.

MR. PARSONS: I got the impression that he had advised with us.

MR. GREENE: No, sir. Just look at Section 72 of the Penal Code and see what your attention was called to, by the District Attorney.

MR. GOODRICH: On the second interview.

MR. GREENE: I haven't it in my mind when the interviews were. It was when he presented some law to him.

MR. GOODRICH: That was at the second interview.

THE WITNESS: I couldn't tell whether that is it or not.

(Mr. Greene then read Section 72 of the Penal Code, as follows):

“ § 72. Officer accepting bribe.—A judicial officer, a person who executes any of the functions of a public office not designated in Titles VI. and VII. of this Code, or a person employed by or acting for the State, or for any public officer in the business of the State, who asks, receives, or agrees to receive a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, judgment, action, decision, or other official proceeding, shall be influenced thereby, or that he will do or omit any act or proceeding, or in any way neglect or violate any official duty, is punishable by imprisonment for not more than ten

years, or by fine of not more than five thousand dollars, or both. A conviction also forfeits any office held by the offender, and forever disqualifies him from holding any public office under the State."

THE WITNESS: He started to read certain sections, and then turned to something else.

Q. Do you remember that?

A. I don't know.

BY MR. GOODRICH: Q. The difference between "conviction" and "indictment" would have impressed itself upon your mind if that had been the advice of the first interview?

A. Yes, sir; there wouldn't have been any question about it then.

Peter A. Hegeman, being duly sworn and examined as a witness, testifies as follows:

THE WITNESS: If you will allow me, Mr. Goodrich, I would like to say, with the permission of the Committee, that I have conscientious convictions that might prevent me from disclosing any of the proceedings of the Grand Jury. But if the honorable body rule otherwise, I should be most happy to answer any questions they will be put to me to the best of my ability and recollection. I wait the opinion of the Committee.

MR. GOODRICH: I called Mr. Hegeman for the purpose of corroborating the testimony of other members of the Grand Jury as to the advice which Mr. Ridgway gave to the body, and without any intention of pressing his examination beyond that point.

MR. COLE: You had better read him the section.

MR. GOODRICH: At the suggestion of Mr. Cole, I read Sec. 157 of the Penal Code as follows:

"Grand juror disclosing transactions of Grand Jury.
—A grand juror who, except when lawfully required by a court or officer, willfully discloses, either

1. Any evidence adduced before the Grand Jury ; or
2. Anything which he himself or any other member of the Grand Jury said, or in what manner he, or any other grand juror voted, upon any matter before them, Is guilty of a misdemeanor."

MR. COLE : That includes the witness himself and the other Grand Jurymen, and does not include the District Attorney.

THE WITNESS : I have the consent of the Committee to answer what took place ?

MR. GREENE : Not what took place between yourselves but just the statement of the District Attorney.

MR. PARSONS : Mr. Greene, you observe the use of the word "wilful" in that section.

MR. GREENE : Yes, but he takes another oath besides this as a Grand Juror.

MR. PARSONS : Yes, not to disclose the counsel of himself and fellow members.

MR. GREENE : Himself and fellows, whatever they be.

BY MR. GOODRICH : Q. Were you a member of the Grand Jury of October, 1886 ?

A. Yes, sir.

Q. Of which Mr. Seely was foreman and Mr. Lawrence was clerk ?

A. Yes, sir.

Q. How long did that Grand Jury sit ?

A. Well, during the month of October principally ; not all the time.

Q. Did you receive from the District Attorney advice in regard to pool selling ?

A. I don't know whether it could be called advice or not. He made certain statements at that time.

Q. In that connection did he advise you upon the subject of an indictment against the Sheriff in connection with pool selling ? A. He said if the Sheriff—

Q. No. First my question is whether he did so advise you ?

A. As I say, Mr. Goodrich, he made certain statements.

Q. Well, what statements did he make?

A. He said that if the Sheriff were indicted he would cease to be Sheriff. He also said that he had told the Sheriff that "This Grand Jury will indict you, and if you are indicted you might as well pack your trunk."

Q. Did he speak of indictment or conviction?

A. I don't think the question of conviction was brought up at all.

Q. Had you a general knowledge of the fact that conviction worked the disfranchisement of a person convicted for breach of duty while holding a public office?

A. Being simply a layman, I had no opinion on the subject whatever.

Q. You didn't even have the general impression?

A. No, sir; I did not.

Q. Have you any question at all that the advice of Mr. Ridgway was in regard to the effect of simple indictment upon the Sheriff?

A. I am positive as to that.

Q. Indictment for what? Mr. Shepard suggests that I should ask you what indictment it referred to; for what crime?

A. Why, for not performing the duty that the Grand Jury authorized him to do—told him to do.

Q. In connection with pool selling?

A. Yes, sir.

Q. After that time, did Mr. Ridgway come before you again in regard to advice?

A. He did; the last day of the term.

Q. Had you meanwhile talked with any lawyer outside, on this subject?

A. I had not.

Q. Had you, outside of the Grand Jury room, talked with any of your fellow members on the subject of Mr. Ridgway's advice upon the question of indictment?

A. No, sir.

Q. When Mr. Ridgway came before you the second time did he advise or talk with the Grand Jury in regard to what he had previously advised it?

Q. He was requested to point out the law on that subject.

Q. What law did he point out ?

A. He sent for a law book, and the book was produced ; and after pondering over the work for some time he read what purported to be the law on that subject.

Q. What law did he read, in substance ?

A. I couldn't say, but I think the word "bribery" was in that section.

Glen Cuyler, being duly sworn and examined as a witness, testified as follows :

By MR. GOODRICH : You were a member of the Grand Jury, were you not ?

A. I was.

Q. Do you reside in the City of Brooklyn ?

A. I do.

Q. Were you a member of the Grand Jury of October, 1886, of which Mr. Seely was foreman ?

A. I was.

Q. Do you remember that the District Attorney came before you for the purpose of giving certain advice in regard to pool selling at Coney Island ?

A. I do.

Q. And in regard to the effect of an indictment upon the Sheriff for failure to discharge his duty in regard to pool selling at Coney Island ?

A. I do, sir.

Q. Will you state what his advice was upon that subject ?

A. Well, he told us that if we indicted the Sheriff, the result would be that he would go out and that he would be no longer Sheriff, nor receive any emoluments or pay thereof. It might be a little hasty, but those were the words he said and used.

William C. Beecher, being duly sworn and examined as a witness, testifies.

By MR. GOODRICH : Q. Mr. Beecher, are you a lawyer?

A. I am.

Q. Are you counsel for the Society for the Prevention of Vice?

A. I am.

Q. How long have you been such?

A. Since 1882.

Q. During that time has it been a part of your special duty as such counsel to take measures for the suppression of gambling, of pool selling, of bookmaking, and other species of gaming at Coney Island?

A. It has.

Q. How much time have you devoted to it, Mr. Beecher?

A. It is very hard to say. I have given a great deal of time to it for the last three or four years.

Q. Have you had various interviews with the District Attorneys of Kings County?

A. I have.

Q. Both the present incumbent and his predecessor?

A. I am not sure in regard to Mr. Catlin, whether I was called in to interview him. I have been with Mr. Ridgway a great many times.

Q. How many times do you think you have called District Attorney Mr. Ridgway's attention to this subject?

A. It would be pure guesswork; but I should say in the neighborhood of twenty or thirty times.

Q. Have you had correspondence with him?

A. I have.

Q. Have you been before Grand Juries on the subject?

A. No sir, I have not.

Q. Have you sent witnesses to the Grand Jury?

A. I have advised Mr. Comstock to send witnesses, and have consulted with him about sending them.

Q. And have you participated in the trial of the indictments against the corporations indicted?

A. Last fall?

Q. At Coney Island last fall?

A. Yes, sir.

Q. Mr. Ridgway says, at page 607, and at page 621 of the testimony—or 607 of the testimony, that no steps were taken in the case of certain convictions for pool selling, because it was understood between counsel associated with me, Mr. Beecher and myself, and counsel on the other side, that these cases should go to the Court of Appeals, and that all cases coming under the head of this demurrer, where the same question was raised, should be determined by the result of that decision in the Court of Appeals; and on that a stay was granted. What have you to say about that?

A. As far as I am concerned, it is absolutely untrue. I have repeatedly urged him to prosecute the individual cases pending; I have given him a list of the names of the men whom I thought ought to be presented. I have urged him to prosecute the cases on appeal. I have urged him to force an argument of the record and judgments now pending in the Court of Appeals, and I have for nearly two years urged him in that direction repeatedly, by letter and by word of mouth.

Q. Do you know of the various charges which were preferred to Governor Cleveland and to Governor Hill against Mr. Ridgway?

A. I am familiar with them.

Q. You may give the date of the first of those charges?

A. I couldn't give the exact date, but it was a short time before Governor Cleveland went out of office.

Q. That would be the last of 1884?

A. Well. I shouldn't try to give you the date. I can remember it by the event. I remember I went before the Governor myself.

Q. It was the latter part of the year 1884, was it not?

A. Yes, I think it was. I went before the Governor myself.

Q. Then what was the date of the next charge to Governor Hill?

A. That was much more recent. The charges before Governor Cleveland, which came into the hands of Governor Hill upon Governor Cleveland taking the office of

President, were withdrawn for the purpose of making some amendments which had been discussed with Governor Cleveland, and I think they were withdrawn in February, 1885, if I recollect right. I don't think the new charges were preferred until 1886 some time; that is my impression; I am not clear about that, as to exact dates. I am quite confident that the new charges were not preferred until well on in 1886.

Q. How many charges were preferred to Governor Hill?

A. Well, one original and one special charge.

Q. So that really there were two sets of charges?

A. Only two. The second was the embodiment of the first.

Q. I mean to say there were only two cases in which formal charges were presented to the Governors?

A. Only two that I know of.

Q. That is, the one set of charges to Governor Cleveland, and descended to Governor Hill, and a subsequent extension of the same charges re-presented to Governor Hill in September, 1886?

A. I think that is the time; yes, sir; only those two.

Q. Did you have partial charge of these matters?

A. Partial.

Q. Were they drawn up under your supervision?

A. They were first drawn up and then submitted to me.

Q. In your capacity as counsel for the Society for the Suppression of Vice?

A. Yes, sir.

Q. When first do you remember to have called Mr. Ridgway's attention to the subject of pool-selling, he having taken office on January 6, 1884?

A. My impression is, that very shortly after he took office, I called with Mr. Comstock upon him. I think it was very soon after he took office.

Q. Can you state what conversation occurred between you then as succinctly as possible?

A. Well, the interview to which I referred—I am not so positive as to the date—the interview to which I referred, I think, was soon after he went into office, and was simply to the effect that the Society would be very glad to co op

erate with him in the enforcement of the law in this county; that the law had not been enforced by the predecessor and that we hoped that he would do better, and see that the law was enforced. He told us he would. We told him we would cooperate with him, and felt it our duty to assist and aid the District Attorney in any way we could; we had special facilities for getting information, and had special sources of information, and would be very glad to give him the benefit of it. That is the substance of it.

Q. During that season of 1884, did you have various interviews with Mr. Ridgway upon this subject, and did you call his attention to the fact that gambling was notoriously carried on at Coney Island?

A. I think it wasn't until—yes, I think it was in the fall of 1884.

Q. Was that after the racing season had ended?

A. Yes, sir.

Q. Did you participate in securing any arrests?

A. I don't recall any. I am not very sure whether I did or not.

Q. Early in 1855, did you receive from Mr. Ridgway the letter which I now produce?

A. Yes, sir; I did.

MR. GOODRICH: I will read this letter.

(Mr. Goodrich then read the letter as follows:)

Office of the District Attorney
Kings County.

Court House, Room 3,
Brooklyn, N. Y.

FEBY. 10, 1885.

WILLIAM C. BEECHER, Esq.,

My Dear Sir:

Some days since my attention was called to an article in the Brooklyn Times, in which you were reported as having said that you would gladly render any service that might contribute to destroy the business of pool selling at Coney Island. I take this opportunity of saying to you that it is my intention to give personally my time to the destruction of this business, and from this time forth I will exert all the power contained in this office to effect such a result;

and I will be pleased if you will call my attention to any future violations of the gambling laws in this county, and give me the benefit of such evidence as you may secure. I have notified the officers of the several race tracks, that they must not permit pools to be sold upon their tracks, and if at the opening of the season they disregard the notification, I will proceed against them in such a way that I think will drive it from the county forever.

Very respectfully, yours,

JAMES W. RIDGWAY.

Q. Was that before or after charges were first preferred?

A. After.

Q. And was it before or after the second charges were preferred?

A. Before the second were preferred.

Q. What was it that induced this letter from Mr. Ridgway?

A. A series of events. Perhaps the one immediately preceding it; there were two interviews which Mr. Ridgway had with me; one at my house, and one at his office the next morning.

Q. State the substance of those two interviews?

A. On returning to my house on the evening of Feb. 6th, I think it was, I found Mr. Ridgway at my house, awaiting me; I have forgotten just how he opened the conversation, but the substance of it was that he wanted me to assist him in breaking up this pool selling, and that he had come to see me. In the course of the conversation reference was made to the fact that I had been taking steps to try to organize a committee here in Brooklyn for the purpose of creating public sentiment to compel the enforcement of the law. And reference was also made to the charges before the Governor. I told Mr. Ridgway that I didn't care to be in the spirit of hostility with him; on the contrary, I preferred to work with him; that he was a public official, and that I felt it my duty to assist, and not be fighting a public official, if I could, and that he knew, and that I knew that the law had not been enforced in regard to pool selling in this county. Either

at this interview, or the next, I can't undertake to keep the facts separate between the two interviews, but one or the other, I said, "You know perfectly well, Mr. Ridgway, that the law has not been enforced by your office." Said he "I know that." Says he, "I have been deceived. I had left that matter in the hands of another party, who assured me that the law would be enforced. I propose now to take care of personally myself." In the course of the conversation I said to Mr. Ridgway, "Will you give me your personal assurance on your honor that you will use the whole force of your office to see that this is stopped." Said he, "I will." Said I, "I wish you would write me a letter to that effect; I wish to be able to use it to show to the gentlemen with whom I have been talking, and who have been trying to organize this committee, and if I should advise them now to suspend action, I want to show something explanatory of my reasons." He then said he would do so. He then said, "If you will prepare for me a letter to Mr. Engeman, and also to Jerome, I will see that it is copied on my letter head and mailed to these two men: directing them to stop their violations of the law.

Q. Pause a moment. You say that the subject of suspension of action was referred to in that conversation. To what action do you refer?

A. I refer to the steps which I was taking to organize a committee for the enforcement of law here in Brooklyn.

Q. Had it any relation to the charges before the Governor?

A. They came up later in the conversation, I think the next day. As I say, I can't undertake to say what part of the conversation occurred at my house, and what part occurred the next day at his office.

Q. Proceed, please?

A. At his office I know I referred to the charges then before the Governor, and said to Mr. Ridgway, in substance, "I don't care to make a threat of any kind, nor do I care to have you act under the stimulus of any threat; but of course you are aware of these charges, and of course if you care to go on and enforce the law, I don't care to press

them." Said I, "Fortunately I have them in my hands now. They have been withdrawn for the purpose of amendment, and if you will give me this assurance that you say you will, I shall be very glad to see that these charges are suppressed, and will suppress them."

Q. And after that was it that he wrote you the letter I have read ?

A. Yes, sir.

Q. You spoke of the preparation of some letters, one to Engeman and one to Jerome. Did you prepare such letters.

A. I did, and sent them to him.

Q. And sent them to Mr. Ridgway ?

A. Yes, sir ; I think the day before the receipt of this letter.

Q. Are these the letter press copies of such letters ?

A. These are.

Q. Those are the same things substantially ?

A. I believe they are almost the same ; almost identical.

Mr. GOODRICH then read the letters addressed to Mr. Engeman and Mr. Jerome respectively, as follows :

BROOKLYN,

Feby. 9th, 1885.

L. JEROME, ESQ.,

Pres. Coney Island Jockey Club.

Dear Sir :

During the early summer and fall of 1884 the law respecting the selling of pools was openly and persistently violated upon the Coney Island Jockey Club race track. I am informed that pools were sold on your grounds at or before every race during the whole season, and that the sales were so open as to have made it impossible for the officers of your association not to have been aware of the fact.

Your association has the care and control of these grounds, and your officers are responsible for all such violations of the law as are knowingly permitted by them.

The public sentiment of this community is earnest in its

determination that the gambling laws shall be enforced, and I propose, in the coming season, as the public prosecutor of this county, to see that this sentiment is respected, and to enforce these laws rigidly, without fear or favor, and shall hold to a strict accountability every man, or body of men, who knowingly violate them.

I deem it but proper that your association should have fair warning in advance of the course I shall pursue, that you may take the proper steps in time to prevent any further cause of complaint.

I am,

Yours very truly,

District Attorney of Kings Co.

BROOKLYN,

Feby. 9th, 1885.

GEO. H. ENGEMAN, Esq.:

Dear Sir :

During the early summer and fall of 1884, the law respecting the selling of pools was openly and persistently violated upon the grounds of the Brighton Beach Race Course.

Every day during the racing season, as I am informed, pools were openly sold on the grounds of your association. These sales were so open and unconcealed, as to have made it impossible for the officers of your association not to have been aware of the fact.

Your association has the care and control of these grounds, and your officers are responsible for all such violations of the law which they knowingly permit.

The public sentiment of this community is earnest in its determination that the gambling laws shall be enforced, and I propose, as the public prosecutor of Kings County, to see that this sentiment is respected, and to enforce these laws rigidly, without fear or favor, and shall hold to a strict accountability every man or body of men who knowingly violates them.

I deem it but proper that your association should have

fair warning in advance of the course I shall pursue, that you may take the proper steps in time to prevent any further cause of complaint.

I am,

Yours very truly,

District Attorney Kings Co.

Q. Those letters I understand were prepared and sent by you to Mr. Ridgway for the purpose of being sent by him to the persons to whom they are addressed?

A. They were.

Q. Do you know that they were sent?

A. He informed me verbally that he had received them, had made some alterations in the letters, had copied them upon his official letter head, and then sent them. He also referred to them in his letter.

Q. Now, was it in consequence of these letters and in consequence of the facts which you have stated that your action on the charges before the Governor were suspended?

A. Yes, sir.

Q. Do you know when the racing season opened that year, 1885?

A. Only approximately. I understand as soon as the frost is fairly out of the ground, and the ground gets hard, solid.

Q. Do you know how long racing was conducted, in connection with pool selling during that season?

A. I think until the snow fell. That is my impression; I am not positive about that.

Q. 1885?

A. 1885.

Q. And racing, in connection with pool selling, increased during Mr. Ridgway's term from time to time, did it not?

A. I am not sufficiently familiar with the extent of that to be able to say, but I know it was carried on continuously during the season.

Q. It was during Mr. Ridgway's term that this system of bookmaking was inaugurated?

A. Duryea's system?

Q. Yes, I think it is Duryea's system?

A. I believe so.

Q. During 1885 can you locate a little more carefully the month that racing commenced at Coney Island?

A. I can't.

Q. Was it before June?

A. Oh, I think so; I am quite sure it was.

Q. Do you know it was a fact that during the early part of that summer gambling was openly and notoriously carried on at Coney Island?

A. I know it from reports of agents sent down to get evidence, and from the newspaper reports giving quotations of the prices at which horses were sold, the odds, &c. I never was down there myself.

Q. Did you in June, 1885, address a letter to Mr. Ridgway, which I now produce to you—a draft of which I now produce?

A. I did.

Q. Won't you kindly read it?

The witness then read the letter as follows:

JUNE 25, 1885.

MY DEAR MR. RIDGWAY:

I notice from the papers that with the exception of Friday of last week the pool sellers have been steadily at work at Coney Island, selling pools in every race without any attempt at concealment and with most perfect contempt of the law and the authorities.

An indictment by the grand jury (of which they always seem able to get information and come prepared with bondsmen, so as to prevent any arrest on the track) does not have the slightest deterring effect—it is firing blank cartridges.

Some much more peremptory and effective methods will have to be resorted to or the public will feel that the Coney Island gamblers are stronger than the authorities of Kings County.

I would suggest that the indictment now pending against McKane be moved for trial. I understand that the evidence is very strong, as he not only saw the gambling going

on but participated himself. He has demonstrated the fact that he *can* stop the pool selling and book making, if he wishes. He should be *made to wish*. The indictment against Mike Murray and the others should be pushed sharply to trial and conviction. Murray especially—he is a leader. He has been convicted in New York, is now under conviction in Kings County, and yet in the face of all defies the law and yourself. If he is convicted and gets a substantial sentence he and the others will not be so eager to continue their violations of law. But above all, the conduct of the officers and managers of both tracks should be laid before the Grand Jury, when it next convenes. You gave them fair warning in the spring and yet they not only permit the violations of the law on their tracks, but participate therein by letting the betting booths to the pool sellers and bookmakers. Their revenue from this one source, I am informed, amounts to a great many thousands of dollars annually.

You can easily prove their knowledge and participation, by Mike Murray, Kelly, Cridge, Lovell, and others of the gamblers, under section 342 of the penal code. They would be compelled to testify if subpoenaed before the Grand Jury. Besides, Bob Pinkerton and his detectives are employed on the track every day and can be compelled to testify. A number of McKane's men are also generally on the track and may likewise be compelled to testify.

I am confident that if such an investigation were commenced it would effectually end their disgraceful business.

Why cannot all these steps be taken simultaneously ?

I will guarantee the results.

I would suggest further that search warrants be issued under which the books, blocks, boards, &c., can be seized.

If there is any way that I can assist, let me know and I will be only too glad to put my services freely at your disposal.

Yours sincerely,

Q. I omitted in its course to ask you whether on May

14 you addressed Mr. Ridgway a letter, of which this is a copy, and if so, please read it?

A. I did.

(The witness then read the letter as follows:)

MAY 14, 1886.

MR. J. W. RIDGWAY.

My Dear Sir:

I read with a great deal of disgust the enclosed account in to-day's paper respecting the pool selling at Brighton Beach yesterday. Were your men down there? What is to prevent you having your officers deputized in this county so that they can act therein? Since they are peace officers they can make the seizure required by section 345 of the Penal Code.

Have you put McKane's and the pool men's indictments on for trial this term?

The pool men are determined to defy you.

If you should force the appeals in Court of Appeals on and bring these pool men to their sentences it would have a very decided moral effect.

Let me know any way I can aid you.

Yours truly,

W. C. BEECHER.

Q. Did you also on August 27, 1885, address the following letter to Mr. Ridgway, and if so, please read the letter?

A. I did.

(The witness then read the letter as follows:)

AUGUST 27TH, '85.

HON. JAS. W. RIDGWAY.

Dear Sir:

Will you please let me know when, in the September term, the indictments against the pool sellers will be called for trial, as I desire to be present.

I see by the papers that they are selling pools on Brighton Beach every race day with the utmost openness, and, also, that they propose, on September 1, to sell pools at Sheeps-head Bay Course.

Have you not the means in your office of stopping these flagrant and openly advertised violations of law?

Respectfully yours,

W. C. BEECHER.

Q. I notice, Mr. Beecher, that in that letter just read you speak of the power of Mr. Ridgway's office. Will you state what that power is?

A. Well, I can tell you, perhaps, what I told him what I thought it was, and my experience of it.

Q. Well, that is what I want?

A. I had told him in these earlier conversations that he had ample authority—ample power in his office—and he could compel the peace officers of the county to execute search warrants under which they could seize the paraphernalia. That our experience in New York County with similar offenses had shown that a seizure of the paraphernalia and carrying it away and holding it as evidence, in the first place, made the most conclusive kind of evidence, and in the second place it almost invariably stopped the offenses; and if he could secure search warrants and send men properly authorized to these tracks and compel them to perform their duties there, I thought he could stop it at once. I also referred to his power of bringing cases before the Grand Jury, and bringing sharply to trial the indictments that had been found; and I have repeatedly, during that period, told him that the long delay following the indictment took away the largest part of the moral effect of the indictment, and that it was only by sharply following up the indictment to trial and conviction, and then compelling men to serve their sentence, that he could stop this business. I said, asserting it as my opinion, that if one or two prominent men were compelled to go to jail the others would not be so eager to follow in their footsteps.

Q. Did you, by your efforts, secure the attention of Mr. Ridgway, and thereby, during 1885, stop pool selling at Coney Island?

A. No, sir; I secured his attention, but I did not stop the pool selling.

Q. What time did the season open in 1886?

A. I presume about the same as in 1885 ; it generally opened I think somewhere in May or April. I think it is in May.

Q. Before the opening of the racing season did you address to Mr. Ridgway a letter—or did you have any conversation with Mr. Ridgway ?

A. Oh, I have, all through 1885 and 1886, had very frequent interviews during the summer time ; you may say almost constant interviews or conversation with him.

Q. During the early part of 1886 what conversation did you have with him on this subject of pool selling or book-making at Coney Island ?

A. I remember a number of conversations in respect to cases where they had demurred, and the demurrer had been overruled, the Kelly case among them. I frequently referred to this and insisted that they should be moved and judgments should be entered up, and the men brought into Court for sentence, and he promised that he would.

Q. Did you at any time tell him that the men who were thus under indictment were repeating the offenses similar to those for which they had been indicted ?

A. I did, sir, a number of times.

Q. Did you tell Mr. Ridgway that it was practicable to have the cases called in Court of persons who had been indicted and were under bail, and thus procuring their presence for the purpose of having them rearrested on fresh charges ?

A. I don't remember that particular advice.

Q. Did you in the early part of 1886, after conversations with Mr. Ridgway, address him a letter, which I now show you ?

A. Yes, sir.

Q. Please read it.

(Witness then read the letter as follows :)

APRIL 28, '86.

HON. JAS. W. RIDGWAY,

Dear Sir :

I have been waited upon by a deputation from the citizens of Brooklyn complaining that the pool-sellers are

again, with their accustomed contempt of law, violating the statute forbidding the selling of pools, and that they have openly sold pools at Parkville and are selling at every race. A committee of citizens have visited the Parkville grounds and found them selling pools without the slightest attempt at concealment.

The public press has announced after each race the fact of pool-selling and the rate at which the pools were sold.

I am informed that active preparations are being made now to open pool-selling at Brighton Beach when that course opens on Saturday.

You will remember that in the spring of 1885 you wrote me that it was your intention "to give personally my time to the destruction of this business and from this time forth I will exert all the power contained in this office to effect such a result." You further stated that you had notified the officers of the several tracks that they must not permit pools to be sold, and that "if at the opening of the season they disregard the notification I will proceed against them in such a way that I think will drive them from the county forever."

It is not necessary to remind you that the law was violated that spring in the most open manner, that quite a number of the offenders were arrested, indicted, but have not even yet been brought to trial, though you assured me they would be tried during that year, and that a number of indictments against these same gamblers found the year previous, and against their abettors, including Jno. Y. Mc Kane, have not been brought to trial. The power lies in your hands, as you frankly admitted to me in one of our interviews, to exterminate these pests, or drive them from our county, and that is by a prompt and energetic persecution of every offender indicted.

It is but fair to you to say that there is a very strong and growing sentiment in our community that our law officers are not as earnest as they should be in attacking these gamblers, and that the responsibilities for this condition of affairs rests very largely with your office.

Of course you are aware that rumors of public corruption

and of purchased protection are very common, and you must see that in the eyes of many the failure to promptly and energetically prosecute all indicted pool men seems to lend color to these rumors. I write thus frankly to you because I hope and would much prefer to see the law enforced by you earnestly and faithfully. I would regret the necessity of any action by the community at large to secure the enforcement of our laws, and yet it is but just that you should know that the sentiment in the community is most emphatically in favor of the suppression of pool selling, and there is a very strong inclination to combine and take such action as will accomplish that result, which action would necessarily be harmful to you.

In the hope that you will take such steps as will render any public demonstration unnecessary, I am

Yours very truly,

W. C. BEECHER.

THE WITNESS: The next day I received a letter written at my office, during my absence, on my letter head.

(The witness then read the letter as follows:)

Law Office of
W. C. BEECHER.

Apl. 29, '86.

237 Broadway, New York City. Thursday.

WM. C. BEECHER, Esq. :

My Dear Sir :

I received your letter of yesterday this A. M., and called to see you relative thereto, but find you are out of town. I understand, however, you will return to-morrow at 9 A. M. If upon your return you can come to Brooklyn please telephone me at what hour you will be at the District Attorney's office relative to taking such steps as you suggest in your letter against pool selling, at which time I will meet you and we can take measures at once to institute proceedings. Please have the Committee that visited

Parkville and witnessed violations of law confer with me or send me their names and residences and I will subpoena them before the Grand Jury at once.

Very respectfully,

JAMES W. RIDGWAY,
District Attorney,
Kings Co.

Q. Was that received April 28th ?

A. Received on the 29th. It was written on the 28th.

Q. It is dated with pencil April 29th ?

A. Yes; I marked it myself.

Q. Did you after that have interviews with Mr. Ridgway upon this subject of stopping gambling at Coney Island?

A. I did, sir.

Q. Did you on the 22d of July, 1886, address to Mr. Ridgway a letter which I show you, and if so, please to read it?

A. I did.

(The witness then read the letter as follows :)

Law Office of
W. C. BEECHER,

237 Broadway, New York City, July 22d, 1886.

Dictated.

Hon. JAMES W. RIDGWAY,
District Attorney, Kings Co.

Dear Sir :

As you will remember, you have several times during the last spring positively assured me that the judgment of conviction against Kelly and a number of the other pool men, which was confirmed over a year ago by the General Term of the Supreme Court, would be entered up and steps taken to enforce the same. I regret to learn that no action has been taken, as I am informed, by your office on those judgments. In the meantime these men are violating the law in utter disregard of any action that has heretofore been taken; and if experience in the past is any criterion for the future, they will continue to violate the law just so long as they find that your office remains inactive and per-

mits judgments of conviction to stand unenforced and is satisfied with procuring mere empty indictments.

I feel a very grave dissatisfaction with the inertness of your office in view of the many strong assurances which you have given me that you proposed to see that the law was thoroughly and rigorously enforced. These men care no more for indictments than they do for so much blank paper. In some mysterious way, before an indictment is filed in your office even, they have notice of the same and are prepared either to give bail or flee the state, whichever shall best suit their convenience. They evidently rely that the perfect immunity which they have enjoyed in the past will be continued to them in the future, and that nothing further will be done by your office than the mere procuring of indictments which will remain unprosecuted. As I have had occasion before to suggest, the failure of your office to bring a single one of these men to sentence for his crimes, in the eyes of the public lends strong color to the rumors current with respect to the relations between your office and these men.

I should regret exceedingly the necessity of taking public action which would be harmful to you. But the present state of affairs in my opinion is scandalous, and a strong public sentiment demands that some much more peremptory action be taken than has as yet been taken.

I write to you thus frankly because my personal relations with you in the past have always been pleasant and I should regret the necessity of taking steps hostile to yourself; but unless something is speedily done far more energetic and efficient than anything that has yet been done, I shall be obliged to cooperate in the movement now contemplated by a number of citizens of Brooklyn.

I am,

Yours very truly,

W. C. BEECHER.

Q. Mr. Beecher, will you look at that paper and refresh your memory, and see beside what you have testified to, whether there are other instances of conversation in which you pressed upon Mr. Ridgway the necessity of action in re-

gard to pool selling and of gaming at the Coney Island Race Tracks?

A. Yes; I recollect of one instance now on looking at this memorandum. In the course of the conversation at my house, he made reference to the fact that there had been some personal feeling between himself and Mr. Comstock, and claimed that Mr. Comstock had originated charges or statements against him to the effect that he had been bribed. I said that Mr. Comstock and myself had heard that, but that it was hearsay, and that we didn't make the charge, nor had we publicly asserted that, as we couldn't prove it, and we didn't intend to make any charges until we could prove them. And then I said, that so far from their being any hostility between us, that we would be very glad to co-operate with him. But I said, "Mr. Ridgway, all I can say is, that if a man had been bribed by the gamblers to keep his hands off, it seems to me he would act just exactly in the way your office has acted." He sort of half smiled and made some sort of deprecatory gesture—motion; he made no answer, but a sort of deprecatory motion, and then turned to something else. That was the conversation at my house.

Q. When was that?

A. That was on Friday, on the 6th of February, as appears by this memorandum—1885. I also told him at that time that I had had a pretty large experience in the enforcement of laws against this kind of offenses, and I knew the nature of the offense, and I knew the character of the evidence required, and I knew thoroughly the character of the men with whom we had to deal; I knew perfectly well it lay in his power, by the simple performance of his duty, to secure the enforcement of this law. I had gone through it myself.

On the next day we brought up, as I remember it, the same general subject of the power of the office of the District Attorney to enforce the law, and I said that I was perfectly familiar with the temptations to delay; but, said I, "When your office makes up its mind that this thing must stop, it will stop," and said I, "Don't you know that it can be done?" He said he did think it could be done. I don't

recollect my own language to him, nor his exact language to me ; but the effect of it was that the office could stop it by a prompt and energetic prosecution, and he assented to that. I don't undertake to give either my exact words or his exact words. That is all that I recollect now, from my own memory. I have much fuller memorandum here with me. That paper that I have here was made on the day of the second interview ; it was taken down by my stenographer when the matter was fresh in my mind. I only give now the facts that I recollect.

Q. Your communications to Mr. Ridgway were not limited in 1886 to the writings which have been produced here, were they?

A. On, no, sir ; oh, no.

Q. Were your communications with him frequent during that year?

A. Quite so, yes.

Q. During all that time did you call his attention to the publicity and openness with which gaming was conducted at the Coney Island race tracks?

A. I did, sir.

Q. Did you urge the arrest of these men and the seizure of their paraphernalia?

A. I specially urged the use of the search warrant as the means of seizing the paraphernalia. I constantly urged that he should send men of his own down there. I urged him to do the work himself ; and I told him that it was a part of his duty, and I told him that we would be glad to co-operate. I said that on one of the tracks it was pretty dangerous for our agents to appear there ; that their lives had been threatened, and we didn't like to send our men down there ; and that on that track they knew all our men. I told him that, as he had the general information, he could send men there and make the arrests.

By MR. COLE : Q. What track do you refer to?

A. The Brighton Beach track ; Engeman's.

By MR. GOODRICH : Q. During all the season of that year you were constantly urging him to action?

A. I suppose on an average nearly once a week ; perhaps

not as often as that, but two or three times a month, anyway.

Q. By reason of the failure of Mr. Ridgway to accede to your desires in taking action to suppress gaming at Coney Island, did you prefer new charges to the Governor?

A. Yes, sir; Well, I did not, but Mr. Comstock did; but I assisted in preparing them.

Q. And those are the charges that you have spoken of as being presented some time in September, 1866?

A. Yes, sir.

Q. The fall of 1866?

A. Yes, sir.

Q. And those charges are still in abeyance?

A. Yes, sir.

Q. Do you know when he served his answer to those charges?

A. I remember the time; it was somewhere in the neighborhood of between one and two months ago. Perhaps it was six weeks ago, but it was at the time it was shown to me anyway.

Q. Was it the 28th of January, 1867?

A. I think that was the time, that would be about two months ago. I saw them at the time.

Q. Mr. Ridgway on Monday last read a letter which he had addressed to Mr. Comstock, in regard to proceeding to Coney Island with his witnesses and having an examination made before one of the justices down there; do you remember that circumstance?

A. I don't remember the letter, but I remember Mr. Comstock, on a number of occasions, referring to the fact that Mr. Ridgway had asked me to go down to Coney Island and go before a committing magistrate there.

Q. Did you advise with Mr. Comstock in that connection about the propriety of that action?

A. Yes, sir.

Q. Why didn't you go down to Coney Island before one of these magistrates or justices of the peace and have this examination in reference to gambling conducted there?

A. I suggested to Mr. Comstock that the sure way would be to go before the gamblers themselves.

Q. What do you mean by that ?

A. I mean by that that I understood they were in the gamblers' pay ; that the officers were appointed at the track and in the interest of John Y. McKane, one of the officials, and that he was under an indictment for permitting gambling--indicted for being found in the very act of gambling with his men, and I regarded it as simply an absurd proposition, and wouldn't be a party to it.

Q. Did you at some time make, or propose, arrangements by which Mr. Ridgway should be notified, and was notified, that you would go before any Judge of a Court of Record in this city, and present these cases ?

A. I believe Mr. Comstock so notified him ; I did not. Mr. Ridgway, I think, never made that proposition to me to go down to Gravesend.

Q. That is, the proposition to go to Coney Island ?

A. No, sir, I don't think that was ever made to me.

Q. Well, you didn't regard that as a wise proceeding ?

A. I regarded it as an absurdity.

Q. Were you nominated as a candidate for District Attorney last fall ?

A. I was.

Q. On what ticket ?

A. Prohibition.

Q. What time was that, do you remember ?

A. The nomination, I believe, was in October or September ; September I think it was.

Q. The suggestion is made that your presentation and pressing of the charges against Mr. District Attorney Ridgway before Governor Hill had some relation to your nomination as District Attorney ; have you anything to say upon that subject ?

A. I was informed by Mr. Comstock when he came to me. I think in September or October, that he proposed to renew the charges before Governor Hill. I said I would have nothing whatever to do with them.

Q. Wasn't that conversation in August ?

A. I can't say as to the time, I can't give the exact date ; I think I was nominated in September. I won't give the date of that.

Q. Didn't it make an impression on your mind ?

A. Well, it did at the time, yes, sir.

Q. More than it did on the community ?

A. I am afraid it did; it seemed to.

Q. Have you anything to say in reference to the statement that the pressure of these charges had relation to your nomination as District Attorney ?

A. Why, simply that so far as its having made any feeling of that kind, I refused, as I have said, to have anything to do with the charges because it didn't seem to me proper, although I hadn't gotten the opinion that my nomination was going to hurt anybody very much ; still I didn't care, being in the field, to take any part in the proceedings against either nominee or a possibly elected officer which might in anywise look as though I was influenced by failure of election. I was pretty confident upon that point before I started; and so far was I from having any animus, that in the fall, in October, when Mr. Ridgway invited me to assist in the prosecution of actions then being or to be tried in the Court of General Sessions, although my friends advised me not to take part with him, because they considered that it was simply using me for political purposes, yet I told them I had made the offer to Mr. Ridgway in good faith, and that I proposed to give him whatever assistance was in my power ; and whatever the effect upon me I proposed to do it when I was called upon. And I did so.

BY MR. PARSONS: Q. How long have you been counsel for this Society for the Suppression of Vice ?

A. I think I was appointed in 1882, shortly after leaving the District Attorney's office in New York ; I fix the date from that event.

Q. During all that time—I mean the time succeeding your appointment—has your position with regard to the society brought you into relation with Mr. Comstock and his subordinates ?

A. Oh, yes, sir ; I have been very frequently and constantly in contact with them.

Q. Was he employed by that society before you became its counsel ?

A. I believe he was.

Q. When first did you give your attention to efforts to suppress gambling in this county ?

A. In this county ?

Q. In this county.

A. I was consulted by Mr. Comstock a number of times while Gen. Catlin was District Attorney.

Q. All I desire now, is to ascertain the date from which your efforts to suppress gambling in this county began ?

A. I think it must have been in 1883, that I began to advise Mr. Comstock, although he had been taking action some time before that ; that is my recollection.

Q. Does that mean that you did not concern yourself about this matter prior to 1883 ?

A. Well, I concerned myself ; rather, I was not called upon by Mr. Comstock to aid and assist him until some difficulty arose with the District Attorney.

Q. I will ask you generally upon that subject in a moment. I desire now to fix as accurately as is possible the date when first your attention was called to the general subject ?

A. I think it was in 1883.

Q. Have you any recollection upon the subject of a proclamation issued by Gov. Cornell as far back as 1881 ?

A. Yes sir ; I think it was 1880, was it not ? I remember the proclamation, but I think it was the year before I went into office.

Q. What was that proclamation ?

A. It was a proclamation to District Attorneys in the different counties of the State that they must enforce the law. I think, generally, against gambling, and that if they failed to enforce the law he should take steps at once to impeach such officers.

Q. You were informed in the same general way in which you learned that gambling was going on during Mr. Ridgway's incumbency of the position of District Attorney, that it was going on on these race courses prior to that time ?

A. Oh, I knew that it was going on prior to that time, yes, sir.

Q. How long prior to the 1st of January, 1884 ?

A. I am pretty sure that I was informed of it both in 1881 and 1882.

Q. How about 1883 ?

A. And I am quite certain the same is true in 1883 ; in 1883 I began to give active advice.

Q. During all that time was the subject of gambling in this county, and of efforts to suppress it, one of general notoriety and discussion in the newspapers, and the subject of very general talk and consideration by the citizens of Brooklyn and Kings County ?

A. I cannot speak of 1881 and 1882. I cannot remember its being discussed much in the papers ; my impression is it began in about 1883 to be noticed much in the papers, and it became more and more prominent, I think, each year. I think that my knowledge of it was obtained from Mr. Comstock during the years of 1881 and 1882.

Q. What I wish to ascertain is, Mr. Beecher, what general knowledge you had on the subject, derived from the same sources from which you ascertained it was going on during 1884, 1885 and 1886 ; was it the subject of discussion in the newspapers during 1883 ?

A. I think it was. I don't care to be positive on that point ; my impression is it was.

Q. Can you fix the time with reference to the fact that up to 1884 General Catlin was District Attorney ?

A. Yes, sir.

Q. Was the subject publicly discussed during the time that General Catlin was District Attorney ?

A. I think it was during the latter part of his term.

Q. Now, sir, what do you know of efforts to have the District Attorney's office of this county deal with this subject while General Catlin was District Attorney ?

A. I know from information which Mr. Comstock gave me, and the advice which I gave him, that he was constantly trying to compel or urging the District Attorney to enforce the law with regard, especially I think to lottery policy at that time, which was the offence just then. I don't think pools became so conspicuous until around 1883 perhaps.

Q. Did you ever see Mr. Catlin upon the subject either upon pool selling or dealing in policy ?

A. I don't think I recall now that I did. I don't remember of seeing him. I know he very frequently consulted with me during the latter part of his term. But I think at that time there was such a breach between Mr. Comstock and General Catlin, that I deemed it useless as an officer of the society to talk with him. That is my recollection of it.

Q. From what did that breach come ?

A. Mr. Comstock frequently urged the prosecution of the policy cases, and the failure of General Catlin to prosecute them.

Q. Mr. Ridgway in his testimony before the Committee spoke about a large number of indictments for offenses under the gaming statute, which were nolle prossed by General Catlin in the month of December, 1883 ; have you any knowledge about that occurrence ?

A. Only that I derived from Mr. Comstock and from the papers. I have seen copies of the papers of indictments that were nolle prossed.

Q. Are you able to give any information about the circumstances attending the nolle crossing of these indictments or reasons which General Catlin assigned for doing it ?

A. Only through hearsay.

Q. Have you any knowledge about communications upon the subject addressed to General Catlin while he was District Attorney ?

A. My recollection is that Mr. Comstock brought the letters which he wrote him ; I must have seen copies of them.

Q. Did you have anything to do with the proceedings, either by way of impeachment, complaint to the Governor, or indictment of General Catlin for his action or non-action in this matter ?

A. I don't remember any proceedings with regard to the indictment. I do remember Mr. Comstock advising with me with reference to the impeachment.

Q. When did that occur ?

A. I think that was the latter part of 1883 ; I think the papers were out too late, if they were submitted, though I think it was about the middle or latter part of 1883 ; the fall of 1883, I think.

MR. GREENE : The question is what did you have to do with moving in any proceedings of impeachment or anything of that kind.

MR. PARSONS : I will ask another question upon that subject, Judge Greene, which will bring out what I wish to obtain.

Q. Will you inform the Committee what proceedings were taken, if any, against General Catlin having relation to his action or non-action in respect to this matter of offences against the gaming statute ?

A. Charges for impeachment were prepared by Mr. Comstock under my advice.

Q. When was that done ?

A. That, as I recollect it, was in the fall of 1883, or the latter part of the summer of 1883.

Q. What was done upon those charges ; give the history of the transaction ?

A. I think that charges were preferred before the Governor, although I didn't go before the Governor myself in the matter ; I simply consulted with Mr. Comstock in regard to them. I have a recollection of looking over them, and making some suggestions, and some changes, and advising him that the facts were sufficient to warrant the preferment of charges, but I don't recollect anything further.

Q. Had you knowledge upon the subject of whether the charges were or were not actually preferred ?

A. I was trying to think about that. My impression is that they were. I did not go up myself, but my impression is that Mr. Comstock did tell me he had preferred the charges, but I wouldn't be positive upon that point.

Q. Did you assist actively in that proceeding ?

A. No, sir.

Q. Did you do anything further about it than that which you have now stated ?

A. No, sir ; I don't think I did. I don't recollect it.

Q. Did you personally participate in any effort to make General Catlin prosecute the offenders under the gaming statute ?

A. No further than by advice.

Q. And do you mean by advice—advice that you gave to Mr. Comstock ?

A. To Mr. Comstock.

Q. Are you quite sure that you never addressed a written communication to Mr. Catlin on the subject ?

A. I don't recollect it ; I have not looked through my letterbook to see. I cannot say certainly about it, for I don't recollect it.

MR. PARSONS : If you are in doubt about the matter, I will ask you to examine your papers and ascertain whether you did address such a communication to General Catlin, and if so, to furnish it to the Committee.

THE WITNESS : I will do so.

Q. Were there any cases pending during General Catlin's term for violation of the gaming statute with which you had any connection ?

A. I don't think there were, that I had to do with except to advise Mr. Comstock. I think he always reported to me whenever he made arrests and the progress he was making. He used frequently to discuss them with me, but I don't think there was anything more than that.

MR. PARSONS : Then I will not trouble you further.

BY MR. GREENE : Q. Colonel Beecher, in your first conversation with the District Attorney, Mr. Ridgway, were you informed that he addressed communications from his office as early as April, 1884, to Mr. McKane in relation to gambling or reported gambling on the Island ?

A. He informed me in one of the interviews that I had with him. I cannot fix the date as being in April.

Q. Did you ever see his letter printed on page 564, addressed to John Y. McKane, Chief of Police at Gravesend ?

A. I don't remember ever seeing the letter.

MR. GREENE thereupon read the letter to the witness as follows :

“ OFFICE OF THE DISTRICT ATTORNEY,
BROOKLYN, April 22, 1884.

“ JOHN Y. MCKANE,
Chief of Police, Town of Gravesend.

“ DEAR SIR :

“ I desire to call your attention to the fact that it is a matter of public notoriety that gambling is openly carried on at various places at Coney Island, in the township over which you hold police supervision. It is hardly necessary for me to call your attention to the fact that gambling is prohibited by the laws of our State, and to remind you of the obligation you owe to the people, by virtue of your office, to enforce the laws. The particular place alluded to is one resorted to by thousands of the people of our city, to whom such exhibitions are objectionable.

“ The season is now about opening, and active measures should be at once taken to make Coney Island free from all such practices as tend to make it repulsive to decent people.

“ Very respectfully yours,

“ JAMES W. RIDGWAY,

“ District Attorney.”

THE WITNESS : I don't remember ever seeing that letter.

BY MR. GREENE: Q. Did that precede in date any of your communications to Mr. Ridgway to urge him to activity on this subject ?

A. I think it does.

Q. Have you learned or read from the testimony given here by Mr. McKane as to the tickets he purchased and for which he was indicted, that they were tickets upon which to obtain evidence for the indictment of others ?

A. I never so heard.

Q. Have you read the testimony that has been given here in this proceeding ?

A. I have not.

Q. Then you don't know whether that is a fact or not ; you have not heard about that ?

A. No, sir ; I don't know anything about it.

Q. You have said that you didn't think that it was advisable for you to say anything to General Catlin because you understood there was a breach between General Catlin and Mr. Comstock ?

A. The latter part of the time, yes, sir.

Q. Havn't you also testified here that you understood there was an unfriendly feeling, and that Mr. Ridgway told you so, an unfriendly feeling between himself and Mr. Comstock ?

A. I testified that he told me there was such a feeling, and that I tried to allay it by assurances that he had been misinformed.

Q. But you were informed that there was such a feeling ?

A. Yes, sir.

Q. And Mr. Ridgway so understood ?

A. Yes, sir.

Q. Then you didn't think it worth while to desist from urging Mr. Ridgway ?

A. No, sir ; he called upon me.

Q. And you did urge him by letter ?

A. Oh, yes, sir.

Q. Were you present in Judge Moore's Court when an arrangement was made about the Kelly case that these other cases should wait until the determination of the Kelly case as a test case ?

A. I don't know, sir ; I don't remember anything of the kind ; I don't remember ever being present in Judge Moore's Court with Mr. Ridgway, except when the cases last fall were tried.

Q. Do you say that you never were present when such an arrangement was talked about.

A. Not that I have any recollection of, sir ; distinctly so.

Q. Is it an unusual thing where there are a number of cases, either civil or criminal, all depending on a question of law, and upon the same question, that an agreement or

understanding shall be had that the one case shall be tried as a test case ?

A. If the question is difficult or obscure it is not unusual.

Q. It is rather usual where it is a question of law, and where that is the main question, is it not ?

A. I can't say as to that ; I have known of cases where it occurred.

Q. I understood you to say that you had had a large experience in these cases ?

A. Yes, sir ; but I have never known but one case under the gambling law used as a test case ; I have known only one case in New York, and in that case I protested with all the power I had ; I was Assistant District Attorney then, and I protested with all the power that I had against the action of one of the judges, who stayed a case pending the argument of a motion to quash an indictment against a man named Simmons ; and we characterized it as an outrage, because the law was plain.

Q. During the last two years there was a new system invented to take the place of the old system of poolselling ?

Q. The Duryea system.

Q. A new system that is called the commission system ?

A. I believe there was ; that is quite right.

Q. What is the Kelly indictment for, as you understand it ?

A. Selling pools.

Q. Or was it for bookmaking ?

A. I guess it is bookmaking ; yes, come to think of it, it was.

Q. Was there a time in the courts when it was a question as to whether bookmaking was included in the language of the statute of recording or registering bets or wagers ?

A. I remember no doubt in the mind of the Court.

Q. Do you remember a time when there were judges of the Supreme Court who held that it was not covered by the statute ?

A. No, sir.

Q. Do you remember Judge Donohue's decision in the city of New York ?

A. I remember his decision ; if I recollect it right—my recollection of that decision is that Judge Donohue granted an injunction and that it was dissolved by Judges Van Brunt and Lawrence, holding that it was a violation of the law.

Q. But was there not a time when the courts did regard it as a question at least as to whether or not bookmaking came within the letter of the statute for registering bets ?

A. Never, to my knowledge.

Q. You knew of the case of injunction being granted ?

A. Yes, sir, and I remember that it was dissolved upon argument.

Q. You knew that case ?

A. Oh, yes. I don't understand that the Court held, in granting the preliminary injunction, that it was not a violation.

BY MR. COLE :

Q. On that action the Bar Association preferred charges against Judge Donohue and sent them to Albany, did they not ?

A. I believe that was one ground of the charges. Upon the argument of that injunction the Court decided without hesitation that it was emphatically and clearly within the law, Judge Van Brunt writing one opinion and Judge Lawrence the other ; there were two opinions.

BY MR. BACON : Q. Was that before or after the Kelly indictment ?

A. I think it was before ; I won't be positive.

Q. We have learned that something over a hundred indictments against gamblers have been had under District Attorney Ridgway ; how many of those indictments have been procured through the agency of Mr. Comstock and his society ?

A. I could not tell you without examining their record ; but so far as I remember individual cases, the vast majority of them.

Q. Nearly all ?

A. That has been my experience.

Q. Do you know of any that were not ?

A. Yes ; I heard of cases, although I couldn't give the names. I think there were some preferred by the police. I think Paul Bauer's case came outside of our office. I think there were two or three that came from the police at Gravesend. That is my recollection.

By MR. GOODRICH : Q. Are you not mistaken about Paul Bauer's case ?

A. I don't think so ; it may be. I thought Paul Bauer's case grew out of his examination on a bail bond ; that is what Mr. Ridgway informed me, at least.

By MR. BACON : Q. Have you ever succeeded in breaking up gambling on race tracks in any other county ?

A. I can't say that I have, or that we have ; but I understand they have been substantially broken up in New York County by the police authorities.

Q. How about Queens County ?

A. There was one very big case that the society broke up at Long Island City.

Q. How was that done ?

A. That was done by seizing the paraphernalia under search warrants.

Q. That is what you wanted to do in these cases ?

A. That is what I constantly urged him to do. The same thing was done with policy and lottery in New York City.

By MR. GREENE : I understand that there is no race track at Long Island City ?

A. No, sir ; I don't understand that there is ; but they used to sell pools and make books there ; there was a great nest of them there ; it was rather a headquarters for book-making.

Q. Did you offer to procure evidence. You knew it was necessary to have evidence before search warrants could issue ?

A. Yes, sir.

Q. Did you take with you, or were there present at the

District Attorney's office, any persons who could make affidavits for search warrants?

A. I offered to bring witnesses, as many as he wanted, and whenever he wanted them.

Q. Do you know when the paraphernalia produced here by Mr. Ridgway was seized?

A. No, sir; I don't know anything about it.

BY MR. GOODRICH: Q. That is the paraphernalia that was used on the last trial?

A. I don't know when it was seized. I think it was seized by Mr. McKane.

Q. How many trials did you participate in the last time you assisted Mr. Ridgway?

A. Two.

Q. At whose request?

A. Mr. Ridgway's.

BY MR. GREENE: Q. At those trials did the District Attorney, in your judgment, discharge his duty fairly?

A. He tried those cases, sir, very effectively, in my opinion.

Q. Did he furnish you with every information and facility that he had in his power, so far as you know?

A. That I could not say.

Q. So far as you know?

A. I can tell you better what he did.

Q. Did he, so far as you know, furnish you with what information he had?

Q. I think no information was furnished me.

Q. Did he furnish you with all the facilities during the trial?

A. I think so; I presume so.

Q. Was there any testimony, or were there any witnesses, omitted that you know anything of, or that you requested during the time these cases were in court?

A. I suggested one or two things that in his judgment were not wise, and I wasn't sure that his judgment was not right; at any rate, I acquiesced in it.

Q. Were there pool rooms in this city at one time since Mr. Ridgway became District Attorney, or said to be?

A. I believe there have been pools sold ; I have heard so, but I don't think they have been openly sold ; I am not positive about it.

Q. Do you know anything about the breaking up of an alleged pool-room, somewhere not far from the City Hall, under Mr. Ridgway's administration ?

A. I have an indistinct recollection of there being a raid of some kind in this neighborhood ; but I couldn't say.

Q. Do you have any gambling places in the City of Brooklyn now ?

A. No, sir, I am not acquainted with any.

Q. No ; but I don't ask for personal knowledge : you have said a great many things here on hearsay ?

A. My impression was that they got information from officers sent out by Mr. Comstock.

Q. Do you know any gambling places in the City of Brooklyn, now ?

A. Yes.

Q. Public gambling places ?

A. I don't know as I can call them public. There are two that I happen to have in mind that were resorted to, I think, principally by Chinamen, and one of them has just been raided and broken up. The other one I understand to be hard to get into and cannot be raided.

Q. That you would call a post joint ?

A. Yes, sir.

Q. Are there any houses of prostitution open in Brooklyn, that you know of ?

A. Not that I know of. We don't make a specialty of that.

Q. Any that you have heard of ?

A. As I have heard ?

Q. Places being kept here as public places of prostitution ?

A. Not recently.

Q. Well, during the last few years ?

A. I don't know as I have heard of any during the last few years.

MR. GREENE : I wanted to see if it was as bad a city as has been represented.

THE WITNESS: I have made no representations.

MR. GREENE: No, you have not.

BY MR. GOODRICH: Referring to the trials of the indictments against the racing corporations to which Judge Greene referred, were those indictments found and pressed with, or against, your advice?

A. The finding of them I had nothing to do with. The moving of those indictments was decidedly against my advice.

Q. Why?

A. Because, as I informed Mr. Ridgway, those were the most difficult cases to prosecute, as it required the proof of knowledge on the part of the corporation; that it was a corporation and not an individual; that it was made up of gentlemen who had been largely identified with the county in very many ways, and especially in spending money, and that the corporation had spent a great deal of money here, and that therefore it would have an advantage of feeling, and that they were all of them residents of the county. That, in my opinion, the prosecution of individual cases would be relieved of many embarrassments that existed with regard to the corporations; there was no necessity of proving the knowledge that somebody else had done the thing; that it was simply necessary to prove the fact, and that would be sufficient. Many of the individuals were most notorious characters, and some of them had been indicted before, and that many of them resided out of the county; that, in my opinion, therefore they were the strongest cases to be moved, and ought to be moved first.

Q. Were the suggestions of embarrassment which you thus made to Mr. Ridgway corroborated by the result of the trial?

A. I think they were.

Q. And what would have been the effect in the way of punishment upon the corporation?

A. Oh, a fine.

Q. If a verdict had been found against them there would have been a fine?

A. A fine.

Q. Nobody could be imprisoned ?

A. Nobody could be imprisoned.

Q. What was the amount of the fine ?

A. I think \$500 or \$1,000, I forget which now ; I think \$500.

BY MR. GREENE : Q. Your communications that have been read here were addressed to these respective corporations, or the managers of them ?

A. Those two that I drafted for Mr. Ridgway.

Q. As early as February, 1885 ?

A. Yes, sir.

Q. And that is the way you attracted the attention of the District Attorney first ?

A. Yes, sir. Perhaps I should correct one error. A year previously I had advised that they should be indicted.

Q. And that would be the most effectual way of closing them up, wouldn't it, if some of those gentlemen alluded to were indicted ?

A. Not only the men, but the corporation as well as the men. I think that would be a desirable thing to do. But when it came to the trial I advised very strongly against moving the case against the corporation ; there was some question about the Duryea system connected with it ; and I advised very strongly against taking the corporation as the leading case. Mr. Ridgway assured me that the evidence he had was amply sufficient to secure a conviction against the corporation, and that if they were convicted there could be no ground on which the single men could stand. He didn't agree with me and I withdrew my objections and he went on.

MR. GOODRICH : Mr. Sergeant-at-Arms, have you subpoenaed George H. Engeman, president and manager of the Brighton Beach Racing Association ?

THE SERGEANT-AT-ARMS : I have not, sir.

MR. GOODRICH : Have you subpoenaed A. H. Battersby, secretary and cashier of the same Association ?

THE SERGEANT-AT-ARMS. I have not.

MR. GOODRICH : How long have you been after them ?

THE SERGEANT-AT-ARMS : About two weeks.

MR. GOODRICH : Can you find them ?

THE SERGEANT-AT-ARMS : No.

MR. GOODRICH : Do you know where they are, or where they are said to be ?

THE SERGEANT-AT-ARMS : I have been informed that they are in Jersey, at a place called Clifton.

MR. GOODRICH : What is Clifton ?

THE SERGEANT-AT-ARMS : A village in New Jersey. My deputy has been there, and has seen them.

MR. GOODRICH : You say your deputy has been there ?

THE SERGEANT-AT-ARMS : Yes, sir.

MR. GOODRICH : And he saw them ?

THE SERGEANT-AT-ARMS : Yes, sir.

MR. GOODRICH : What were they doing there ?

THE SERGEANT-AT-ARMS : Engaged in attending to fitting up some race track.

MR. GOODRICH : You could not secure their presence, then ?

THE SERGEANT-AT-ARMS : No, sir. Diligent search has been made for them, both here and in New York.

Henry F. Van Loan, being duly sworn and examined as a witness, testifies:

BY MR. GOODRICH: Q. Were you the foreman of the Grand Jury of July, 1886?

A. Yes, sir.

Q. Was the subject of gambling at Coney Island before your Grand Jury?

A. Yes, sir.

Q. Did you have consultations or advice from the District Attorney, either in the Grand Jury room or elsewhere, upon that subject?

A. Yes, sir.

Q. Where did you receive the advice?

A. It was in the Grand Jury room at one time, and at one time in the District Attorney's office.

Q. State what the advice in the Grand Jury room was?

A. The advice was that pool selling was against the law, and that Mr. Ridgway had been endeavoring to stop it; but these men had been indicted, they were now up for trial, and that it would come along in the due course of the routine of the office.

Q. Anything further at that time?

A. The question then came up later as to the indictment of the District Attorney, in connection with these pool selling cases here.

Q. Do you mean the District Attorney, Mr. Ridgway?

A. Yes, sir.

Q. Or his predecessor?

A. Mr. Ridgway.

Q. What advice was given upon that subject?

A. We summoned Mr. Ridgway as a witness for himself, and I hardly think that his testimony can be used; I do not think I ought to give it.

Q. I do not ask you for that. Did you have other advice outside of the Grand Jury room from the District Attorney or any of his subordinates in respect to pool selling?

A. Yes, sir, I had a little advice from an attorney and some from the District Attorney also in regard to this matter.

Q. From Mr. Shorter, do you mean?

A. I met Mr. Shorter in the District Attorney's office.

Q. State the conversations between you and Mr. Shorter outside of the office ?

A. Mr. Ridgway said that he had—— Which one do you refer to ; we had several ?

Q. Take the first one, take them in their order.

A. The first one was held in the District Attorney's office in which several members of the Grand Jury with myself went down there and told Mr. Ridgway that we had received some communication from Mr. Comstock, and that we wanted Mr. Comstock to examine in connection with those communications. That was with Mr. Shorter; Mr. Ridgway was out of town, I believe, and Mr. Shorter examined Mr. Comstock, and the communications that were received from Mr. Comstock were duly laid before the Grand Jury.

Q. That I don't ask you for. State any conversation you had with Mr. Ridgway outside of the Grand Jury room ?

A. I had a conversation with Mr. Ridgway, the only one that I remember, at Mr. Ridgway's office one time.

Q. What was that ?

A. Mr. Ridgway had become acquainted with the nature of these charges and had come back to the city I believe, and he sent for me to come over to his office, and I went over to his office, and saw Mr. Ridgway there.

Q. What occurred when you got there ?

A. Mr. Ridgway then explained that he had done everything in his power to prosecute these indictments, and said that he had personally taken charge of a great many cases ; more so than any predecessor in the office. I told him that the sentiment of the Grand Jury was rather against him, and the best thing, I thought, for his interests and the interests of Brooklyn would be to have pool selling stopped at once, and to have one of these cases put on trial and pressed through to conviction or acquittal ; and that if the law was not able to convict, then, why it should be repealed, and if it was, why he should press them through to conviction. Mr. Ridgway said he would endeavor to see Judge Moore and see that one of those cases was tried at once. And Judge Moore said that on account of a——

Q. Never mind about Judge Moore. Did you afterwards see Mr. Ridgway in that connection ?

A. I saw Mr. Ridgway in that connection, and Mr. Ridgway said that Judge Moore wouldn't try those cases in the summer time ; on that account he wouldn't try them.

MR. GREENE : Is it improper for the witness to say that he saw Judge Moore ? We don't want a one sided view of this matter.

MR. GOODRICH : I do not object.

MR. GREENE : Why stop him, then ?

MR. GOODRICH : I was examining him about a specific subject, Judge Greene ; at the same time, I have no objection to his stating anything that you desire to have him state about Judge Moore.

BY MR. GREENE : Q. Did you see Judge Moore ?

A. I saw Judge Moore twice. Up to this time Mr. Ridgway said he would see Judge Moore, and see if a case could be put on trial at once, and Judge Moore refused to try the case in the summer time on account of being a summer session. I told him the sentiment of the jury was rather against him, and that by putting one of these cases on for trial I thought that that would be what the Grand Jury would want : that if pool selling was stopped that was what the Grand Jury wanted ; and during the session of that Grand Jury the pool selling was stopped.

BY MR. GOODRICH : Q. You heard that during the session of that Grand Jury the pool selling and gaming was stopped ?

A. Yes, sir ; I saw it in the newspapers that Mr. Shorter had stopped it.

Q. And did you also ascertain that when the Grand Jury adjourned the pool selling began again ?

A. I heard it from one of my fellow members of the Grand Jury that it was going on.

Q. I am not asking for the secrets of the jury room, understand me ; but I understand you that you found no indictments against any of the pool sellers or gamblers for gaming ?

A. No, sir; on the contrary, we did find indictments against every one that evidence was produced against.

Q. Have you a written agreement signed by Mr. Ridgeway in regard to gambling?

A. No, sir.

Q. Have you had one?

A. No, sir.

Q. Did you have any letter from him?

A. No, sir.

Q. Or see any letter from him?

A. No, sir.

Q. Do you know of the existence of any paper which Mr. Ridgway signed or Mr. Shorter signed in regard to gambling at Coney Island, about the time you were foreman of the Grand Jury?

A. The question arose in the District Attorney's office just before the adjournment of the Grand Jury. Mr. Ridgway said he would press these indictments through to trial, if not right away, as he asked him to, which he did not want to do on account of Judge Moore not wanting to try them at that time, still he said he would move them shortly in the fall; and in that connection the Grand Jury tried to fortify itself by asking Mr. Shorter if they didn't perform that promise, whether this Grand Jury, or any man of it, had the power to go before any other Grand Jury and testify as to what Mr. Ridgway had told them as to his enforcing the law against pool sellers. They said that there was no objection; there was no law to prohibit any member of this Grand Jury from going before another Grand Jury and testifying as to what happened before that jury.

Q. You say "they" said so; who said so?

A. Mr. Shorter and Mr. Ridgway were present at the time. The question came in my mind whether we were legally barred from going before another jury and testifying to what had happened before this Grand Jury—the Grand Jury of which I happened to be foreman. The question was whether that evidence would be barred out from any future Grand Jury; whether we had the right to go before them and state what happened; and Mr. Shorter and

Mr. Ridgway said, No, that they wouldn't be barred : and we tried to see that these cases would be carried on to conviction or acquittal, if we could.

Q. Do you know of any letter signed by Mr. Shorter or Mr. Ridgway in that connection, or in any connection with reference to that Grand Jury ?

A. I asked Mr. Shorter if he would put that in writing and sign it, and he put it in writing and signed it.

Q. Where is that letter ?

A. I don't know but what it is destroyed.

Q. What were the contents of that letter ; where did you see it last ?

A. I rather think it is at home, but I don't know whether it has been destroyed or not, among my other papers ; I rather think it has been destroyed.

Q. When did you see it last ?

A. I haven't troubled myself about it since the Grand Jury adjourned.

MR. GOODRICH ; I will ask you to look for that paper. If you can go right up to your house and return with it I would like to have it.

THE WITNESS : I don't know that I can find it.

MR. GOODRICH : Can you make the effort ?

THE WITNESS : I can.

MR. GOODRICH : Well, please go and get it ; and please do not permit communication with anybody until your return.

Lewis R. Stegman, being duly sworn and examined, testifies :

BY MR. PARSONS: Q. Were you at one time Sheriff of the County of Kings ?

A. I was.

Q. During what period ?

A. The years 1882, 1883 and 1884.

Q. Who was District Attorney of the County of Kings during the years 1882 and 1883 ?

A. Isaac S. Catlin.

Q. And during 1884 ?

A. James W. Ridgway.

Q. When first, if at all, was anything done towards the suppression of gambling in Kings County while you were Sheriff, with which you had anything to do ?

A. In the month of September, 1883.

Q. What then occurred ?

A. Twenty-three bench warrants were placed in my hands for execution against gamblers at Coney Island.

Q. Is that the first such occurrence with which you had to do ?

A. Yes, sir.

Q. You mean that down to that time you were not called upon to execute bench warrants against gamblers ?

A. No, sir.

Q. I suppose you mean yes, that you were not called upon ?

A. I was not called upon prior to that time ; that was the first time that I was called upon.

Q. Have you a list of the names of the 23 persons referred to by you ?

A. Yes, sir ; I have.

Q. Give them ?

A. You desire not only the names on the warrants, but also the real names of the parties ; or only the names on the warrants addressed to me. I have those. The names were on the bench warrants and the names of the parties who were real parties.

Q. Give them.

A. Daniel Doe, right name Michael J. Cole, arrested September 24, 1883 ; Thomas Doe, real name Carson Morris, surrendered at District Attorney's office September 25; John Y. McKane, arrested by me personally September 24; Allen Wilson, arrested September 25; John Finnigan, arrested September 24; James Dunphy, same date; Albert Bertus, surrendered September 25; Peter Roe, right name Charles T. Smith, surrendered September 25; James E. Brown, arrested September 24; William Boyle, surrendered September 26; William Fulton, surrendered September 26; Peter Doe, real name Thomas Leater, surrendered September 28; James F. Quigley, September 28; James N. Monegan, September 28; the balance of the warrants were not executed; they were made in the names of Richard Roe, John Doe, Thomas Lennon, Peter Low, etc., for persons whose names we did not know; there were in September twenty-three warrants; sixteen executed.

Q. Do you include in the sixteen executed those surrendered?

A. Yes, they are all there.

Q. What did you do with those whom you arrested?

A. They were taken to the District Attorney's office and bailed.

Q. Do you know who bailed them?

A. I can only recall in two or three instances, perhaps, the names of men who were then giving bail, but I don't know for which particular parties.

Q. Mention the names you do remember.

A. Paul Bauer and Mr. Williamson, of Coney Island; I don't remember his first name. I am not certain in regard to the fact of whether John Y. McKane was one. Williamson and, I think, Mr. McKane also, went on the bail bond of two or three.

Q. How confident are you that Mr. McKane went on the bail bond of some of these gamblers?

A. I am not confident about that. In the case of Mr. Bauer I am confident.

Q. Do you mean to be understood that Mr. McKane became bail for some of these parties?

A. I have the impression that he was there and that he went on the bail bond of some.

Q. In whose custody were these bail bonds after being executed?

A. The custody of the District Attorney.

Q. Who is Williamson, of whom you spoke?

A. He belongs to Coney Island, but I don't know his business, except I remember the gentleman; I am not acquainted with him.

Q. Do you remember what accounted for his becoming bail for these men, or some of them?

A. Only on account that he knew some of the men, or had been called upon by them or their friends.

Q. Did you know Williamson by reputation at that time?

A. No, sir, I did not; I only had met him.

Q. Had you met prior to that time?

A. Yes.

Q. Where had you met him?

A. I think at Paul Bauer's club house and around Paul Bauer's buildings.

Q. Come now to Paul Bauer. Were you acquainted with him at that time?

A. Yes; very well.

Q. When did you form his acquaintance?

A. From the time he first started at Coney Island, and prior to that in New York City.

Q. When did he start on Coney Island?

A. I should judge as early as 1877 or 1878, perhaps.

Q. What did he start on Coney Island?

A. A large music concert room and also lager beer and restaurant.

Q. When did you form his acquaintance in New York?

A. There I simply knew him nominally, by reason of an introduction. I think at the time when he was keeping the Pacify Hotel in the Bowery.

Q. What sort of a hotel was that?

A. A large lager beer saloon, German restaurant and hotel for transient or regular boarders.

Q. Is Paul Bauer a notorious character?

A. I can't say, except that he is pretty well known all over.

Q. What has been his reputation during all the time that has been mentioned?

A. Well, sometimes, in the newspapers, he has been run down very severely, as being connected with poolselling, and also in connection with his establishment.

Q. When first was his name publicly associated with gambling or poolselling, to your recollection?

A. Not until, I think, about 1883.

Q. Did you ever do anything in the direction of suppressing gambling at Paul Bauer's place?

A. At the time I went there with Mr. Comstock for the purpose of arresting some men mentioned on those bench warrants, to break up the whole establishment.

Q. Did you ever do anything prior to that time?

A. No, sir.

Q. Were you not prior to that time aware that his public reputation was that of keeping a notorious gambling place on Coney Island?

A. No, sir; I cannot say that I was.

Q. What was the reputation of his place?

A. Simply it was a very large place, had a great deal of music and was a very comfortable place to go to in Summer time for the purpose of passing away time.

Q. Was his name, prior to September, 1883, known to the police, or to your office of Sheriff, in any general way in connection with any kind of crime? What I wish to ascertain is whether public notoriety associated his name with crime of any particular description prior to your going down to Coney Island in September, 1883?

A. Only by public newspaper repute.

Q. What was the crime with which public repute associated Paul Bauer's name prior to September, 1883?

A. It was charged that he had a poolroom at his place.

Q. Is he one of the persons against whom you had bench warrants in September, 1883?

A. No, sir; I had a bench warrant, not against him, but Al. Bertus, his manager.

Q. The person put down on your list as Albert Burtis?

A. Yes, sir.

Q. The note on your list against his name is "surrendered;" what does that mean?

A. It means that he came to the District Attorney's office the morning after we made the raid.

Q. Why didn't you arrest him?

A. He was not present; the majority of them had run away.

Q. Was the same true of all the persons whom your list specifies as having surrendered themselves?

A. I judge very nearly so; we could not find them the day we went down—Mr. Comstock and the Sheriff's posse—we arrested some six that day.

Q. How many surrendered themselves subsequently?

A. The balance of them, with the exception of James Madigan and James Quigley; they were arrested later.

Q. Mention the number of those who surrendered themselves subsequently to your raid at Coney Island?

A. Nine.

Q. Did either of those persons, other than Albert Burtis, have any connection or relation with Paul Bauer?

A. My impression in regard to the names I find here would be that Michael Heuber, a man attached to Paul Bauer's place; Heuber's real name was Henry Grueber; I remember that man on account of the fact of his being a German, and I think a short, stumpy man; I think those were the only two.

Q. Do you know how these people learned that there were warrants against them?

A. I have no recollection.

Q. Did you make any effort to prevent the fact being known?

A. Yes, sir.

Q. If, therefore, the fact leaked out, may the Committee understand that it was not through any instrumentality on your part?

A. None whatever; on the contrary, I took every means in my power to prevent it being known to any living soul, except those it was necessary to employ.

Q. Did anything occur when you reached Coney Island

which informed you whether or not it was known that you were going to arrest these people on these bench warrants?

A. Yes, sir.

Q. What occurred?

A. It happened to be a rainy day, unfortunately for us, when we started on the raid, and when we reached the first place—the Brighton Beach track—we found that all the paraphernalia had been removed.

Q. When did you learn first that these bench warrants had been issued?

A. I think some two days preceding the raid.

Q. Were they issued by Gen. Catlin personally or by subordinates?

A. I think the signature was Judge Henry A. Moore and—

Q. With whom, in connection with the District Attorney's office, did you communicate about securing the arrest of the persons against whom those warrants were issued?

A. I imagine I spoke to pretty much all at the District Attorney's—that is, the Assistant District Attorneys, as well as Gen. Catlin himself, and, I think, Mr. Backus and Mr. John Oakley.

Q. How long after you actually received the bench warrants was your first conversation with either General Catlin or one of his subordinates?

A. Immediately upon receiving the bench warrants.

Q. How long was that prior to the time you executed them?

A. About three days.

Q. What delayed the immediate prosecution of them?

A. I desired to get together a sheriff's posse for the purpose of going down there.

Q. How many went with you?

A. Forty or fifty men.

Q. State your best recollection of the persons for whom Paul Bauer went bail?

A. My recollection would be the two men who were engaged in his place, Mr. Grueber and Mr. Burtis.

Q. What connection, official, or otherwise, did you have

in either of these cases subsequent to the effort you made to secure the arrest of the defendants?

A. None whatever.

Q. What did you do with those whom you actually arrested?

A. They were taken to the District Attorney's office, where they were placed under bail.

Q. Were you present on that occasion?

A. On the occasion of some three or four of them.

Q. Did you bring them with you from Coney Island?

A. We brought some two or three.

Q. What about the others?

A. The others had been arrested, and I sent them down in charge of two deputies.

Q. Did they give bail the same day they were arrested?

A. I am pretty positive they did.

Q. Did you have any conversation with John Y. McKane about persons you did arrest and about bench warrants?

A. Yes, sir.

Q. When and where—where did you meet him?

A. At Coney Island, in front of his Chief of Police office, and afterwards directly in his office.

Q. Did that occur on both occasions you refer to?

A. No, sir; one in my own office the next preceding day, and the other on the day I reached the Island.

Q. State the conversation you had with him at Coney Island and in front of his police office?

A. The conversation was in reference to whether he could point out to us parties on the bench warrants in my possession—men whom he knew personally. He said some of the men were not there that day, and he could not point them out, but he could guarantee they would come to the office the next day.

Q. Is that the whole conversation?

A. Mr. Comstock had some extended conversation with him, and that was about the same in substance. He would guarantee these men would come forward—all he could recognize—and surrender themselves.

Q. Was there anything said which indicated that he knew you were coming down to execute those bench warrants?

A. I think not, from the simple fact that one or two of the men I arrested I arrested as they stood alongside of John Y. McKane. I don't think he could have known, or certainly those men would not have been there.

Q. Who were the persons for whom he gave a guarantee they would surrender and give bail?

A. Those who afterward came up and surrendered.

Q. All of them?

A. Yes, sir; I suppose so, as nearly as possible those who at that time afterward came up.

Q. What conversation took place between you and John Y. McKane on the following day when, I understand, he came into your office?

A. On the following day and the day succeeding I spoke of the number of men—seven or eight—who had not appeared and I called his attention to the fact of the conversation we had on Coney Island, when I understood from him that he proposed to send these men up, and he said if he could find the men he would send them up.

Q. Is that the whole of the conversation?

A. That is the substance of the whole. I wanted to secure either their surrender or arrest.

Q. Did this conversation refer to persons who were neither arrested nor surrendered themselves?

A. Yes, sir; and I was finally compelled to return that they could not be found. I had the warrants in my hand, and I said to Mr. McKane: "From the description of the men given to you you must know some of these men," and he said: "If I did I would send them up."

Q. Have you stated now all that was done by yourself during General Catlin's administration in regard to gambling at Coney Island?

A. All that I had anything to do with.

Q. When first did anything take place with which you had any connection in reference to gambling after District Attorney Ridgway assumed office?

A. I think the month of June; but I have no memoranda

of it as I have in the other cases ; I can only refresh my memory by seeing the original warrants ; there were some fourteen odd warrants placed in my hands for execution against people of various names, and only one or two surrendered themselves and none were arrested ; that was in June or July, 1884.

Q. Did you at any time subsequent to January 1, 1884, take any action about gamblers ?

A. No, sir.

Q. I mean to embrace the entire period from January 1, 1884, down to now ?

A. No, sir.

Q. From whom did you receive the bench warrants to which you have last referred ?

A. I don't know whether they were handed directly to me in my office, or whether I was asked to come into Judge Moore's Court and there receive them. I remember going in there and having a conversation with Judge Moore, but whether he had sent for me to give me the warrants, I can't recollect ?

Q. How many cases were there ?

A. Some fourteen.

Q. What effort did you make to execute those bench warrants ?

A. Immediately upon receiving them, together with the under sheriff, I started to New York, as there was no racing at Sheepshead Bay at that time. I went to Mr. Comstock's office, desiring to secure from him information in regard to the identification of the individuals.

Q. I want to know what effort you made to arrest them ?

A. I went directly to Mr. Comstock's office to have the persons identified.

Q. Having obtained that information what did you next do ?

A. I couldn't get any information from Mr. Comstock and I went from his office to see James E. Kelly.

Q. Who is Mr. Kelly ?

A. James E. Kelly.

Q. Do you mean the person who has been examined here as a witness ?

A. I presume he is the same. I met Mr. Kelly at the St. James Hotel, on Broadway. I asked him if he could give me any information as to where the individuals were mentioned in those warrants. I asked this without showing some little memoranda I had with me. He said he could not tell me anything about it. Thereupon I showed him the memoranda and he said, "Sheriff, with the exception, perhaps, of two or three names the rest are bogus. If you can give me any idea as to who the individuals are I will be glad to assist you." I think he could identify but two, and they were Dougal McDougal and, I think, Mark Jordan. I asked: "Where are they?" He said: "I think they are at Monmouth Park race track."

Q. Did you arrest them?

A. They delivered themselves up to me at the Sheriff's office next morning and I arrested them there.

Q. Were these the only persons actually in custody on the bench warrants issued at that time?

A. There may have been two or three more.

Q. Do you remember the name of John T. McDougall?

A. I remember there being such a name.

Q. Do you remember whether you arrested more than one man of the name of McDougall, or assumed to be of that name?

A. Only Dougal McDougal.

Q. Were you acquainted with the public reputation of either of these men? I mean the two men who went by the name of McDougall?

A. I never knew anything about them. I knew Mr. Kelly only by reputation.

MR. GOODRICH: Is Gen. Catlin here?

THE SERGEANT-AT-ARMS: No, sir.

MR. GOODRICH: Has he been subpoenaed?

THE SERGEANT-AT-ARMS: Yes, sir.

MR. GOODRICH: Do you know where he is?

THE SERGEANT-AT-ARMS: He went to Albany this morning, and is to attend to-morrow morning.

Mr. Stegman was then recalled and further examined.

BY MR. GOODRICH : Q. Mr. Stegman, there seems to be some misapprehension about the persons whom you undertook to arrest in 1884, and how many bench warrants were then given to you ?

A. My recollection is, sir, about fourteen.

Q. How nearly can you fix the time ?

A. I fix the time on account of the fact that I came from Europe in the early part of June, and it was immediately succeeding that time and just prior to my going to the West, to which I went about the middle or toward the latter part of July, and it occurred between the time of my return from Europe and going West.

Q. Of the entire number against whom those bench warrants were issued, how many were arrested ?

A. As I have already stated, I am positive in regard to two, and I think three, but I could not positively assert that, because I have no means of knowing ?

Q. What are the names of the two about whom you are sure ?

A. They I think were Dougal McDougal and Jordan.

Q. What is the name of which you are in doubt ?

A. I could not positively say, but it runs in my mind it was a peculiar name ; I think it was Peter Cridge, but I could not say positively ; it is the peculiarity of the name that directs my attention toward it ; whether the party came over and delivered himself up or was arrested, I cannot say, but I notice the name Cridge.

Q. Were either of the persons against whom these warrants were issued arrested, or did either surrender himself other than the three to whom you have specially referred ?

A. Those are all I can recollect.

BY MR. PARSONS : Q. Do you recognize in that printed list any of the persons for whom you had bench warrants on the last of June (June 30th, 1884 ?

A. Yes, sir ; now that I see this list I recollect the names of several—Dougal McDougal, Peter Cridge, Fred. Dutch, that was a peculiar name, and Mark

Jordan ; and I remember speaking of there being several Kellys at that time. David Johnson seems to be familiar to me.

MR. GREENE : Q. Is it not a fact, Mr. Stegman, that bench warrants were received for those persons, twenty-two of which are listed as being convicted of pool cases during 1884, and that a subsequent list shows the same persons, only that they were indicted over again, only the names being found to be wrong in the first indictment ?

A. Quite likely to be the case.

BY MR. PARSONS : Q. In the list to which your attention has been called appears the memorandum that they were convicted December 1st, 1884, against twenty-one names. Is what you mean to say this : It is your belief that among those twenty-one names are the persons against whom were issued the bench warrants to which you have referred ?

A. I might not have had all these bench warrants. My impression is I only had fourteen.

Q. Does this change your testimony or refresh your memory as to what was done by you towards executing those bench warrants. I understand you have heretofore stated there were only three persons arrested or surrendered themselves. Is this still your testimony ?

A. To the best of my recollection there were only two or three men who came into the office and surrendered themselves.

Q. Can you give anything in the way of explanation of how any of those persons came to be arrested or to surrender themselves ?

A. No, sir ; that was all I had to do in 1884 in connection with those cases. There were no others after that of which I remember.

MR. PARSONS : With the permission of the Committee I will ask Mr. Stegman some questions on an entirely different subject.

Q. Have you informed yourself, Mr. Stegman, of the testimony that has been given before the Committee by Sheriff Farley and Under Sheriff McLaughlin ?

A. I have read the testimony ; yes, sir. .

Q. During the three years of your term as Sheriff was this office a feed office ?

A. Yes, sir.

Q. Of what did the office staff consist. I do not require names ; merely classify the subordinates ?

A. Under Sheriff—

Q. You may give his name ?

A. Haskinson. I originally had seven deputies, but eventually reduced the number to two. I had an executive clerk to manage executions as they came in ; a clerk in the foreclosure department ; a bookkeeper, personal to myself. I had a warden at the Jail and four underkeepers, one night watchman and two drivers of vans. This varied at times from various causes. We had a larger force when we started in than at the close. I found the expense was too heavy.

Q. What means exist by which the Committee can be informed of the moneys that came to you as Sheriff ?

A. My personal account book, which is entirely at the service of the Committee.

Q. Do you mean that that book contains all the items of money that came into your hands as Sheriff ?

A. Yes, sir, and all disbursements.

Q. From what sources did fees come to you while you were Sheriff ?

A. Warrants of attachment, warrants of arrests, foreclosure, poundage, etc., board of the prisoners at the Jail at 28 cents per day ; \$2,000 from the county for transporting prisoners to and from the Jail and courts ; \$4,500 for transporting prisoners to and from Jail and penitentiary and justices' courts ; and the few United States prisoners taken to the United States courts, for which the Government pays a small amount.

Q. Did you receive any moneys from your deputies which came into their hands and which were subject to division with you ?

A. None whatever, except poundage, which is legally divided, half going to the Sheriff and half to the deputies.

Q. Who regulated the amount they received ?

A. The law and whatever they can make.

Q. That is just the point ; whether it was " the law," or what they could make ?

A. My orders were that they should not take a dollar or a penny more than they were legally entitled to outside of regular lawful fees ; if they received any outside of that I never knew it.

Q. Were you not aware that they received money outside of what you call " that " ?

A. I never knew it.

Q. Were you not aware of it ?

A. My attention was never called to it.

Q. Was it not a notorious fact that while you were Sheriff your deputies exacted moneys largely in excess of fees permitted by law ?

A. I have no knowledge of it ; I have heard of it for many years ; ever since I have known the Sheriff's office.

Q. And that goes back how long ?

A. Thirty years.

Q. What did you do while you were Sheriff to regulate or correct that evil ?

A. I had the deputies, from time to time, in my own private office, with special and particular instructions with reference to whatever we desired them to do, and my special instructions were that they were not to take one dollar or one cent outside of the legal fees.

Q. Do there exist the means of showing what the poundage allowed by law, and from which your deputies were to receive their compensation, came to during the time you were Sheriff ?

A. Yes, I can state this—

Q. I don't ask to state anything more than I ask—whether that matter can be made exact ?

A. I have the exact figures in my books here that were returned to me as the amount of poundage due to me ; I was entitled to one-half the poundage ; this was the legal poundage to which the Sheriff was entitled.

Q. I understood you to say there was no arrangement between you and our deputies for division ?

A. This was the regular legal poundage which by law was divided between the sheriff and his deputies.

Q. What do you mean by what you said about anything outside of legal fees? What did you mean by "whatever?"

A. Anything made outside.

Q. Illegal compensation?

A. That I knew nothing about.

Q. Now give the figures of the amount of poundage received by the Sheriff year by year?

A. I can give that in a moment if you will permit me to give it from my books; I don't think I got but about one-tenth of that which I was entitled to. I haven't added up those figures on my books, Mr. Parsons, but I can read them off as they progress month by month from the first of January, 1882, until the 31st day of December, 1884.

Q. Are those the figures which show the amounts received by you as poundage?

A. Yes sir, the amounts credited to me on the books as poundage.

Q. And assumed to be one-half of the total amount of poundage received by the office?

A. Yes, sir.

Q. I will ask you to give the amounts month by month beginning with the time you became Sheriff and continuing down to the end?

A. Yes, sir. I will read them to you.

In the month of January, 1882,	\$12 12
In the month of February, 1882,	28 33
In the month of March, 1882,	45 23
In the month of April, 1882,	60 04
In the month of May, 1882,	47 95
In the month of June, 1882,	52 13
In the month of July, 1882,	66 62
In the month of August, 1882,	113 17

It took a big rise just there.

In the month of September, 1882,	55 41
In the month of October, 1882,	33 20
In the month of November, 1882,	16 39
In the month of December, 1882,	16 77

That gives the whole of 1882.

(The total of the above items for year 1882 is \$547.36.)

THE WITNESS: For the year 1883 the items are as follows:

The month of January,	\$25 65
The month of February,	17 06
The month of March,	26 84
The month of April,	16 39
The month of May,	4 97
The month of June,	2 80
The month of July,	3 89
The month of August,	1 36
The month of September,	5 32

For the month of October nothing at all, and the same for the month of November.

The month of December, \$3 37

The total of the above items for the year 1883 is \$107.65.

THE WITNESS: For the year 1884 the items are as follows:

The month of January, 3 13

Month of February nothing; month of March the same; the month of April the same; the month of May the same; the month of June the same; the month of July the same; the month of August the same; the month of September ditto; the month of October the same; the month of November the same; the month of December the same.

(The total of the above item for the year 1884 is \$3.13.)

BY MR. PARSONS: Q. State the total for the year 1884!

A. The total for 1884 is \$3.13.

Q. To be divided among how many deputies?

A. That is just my half.

Q. But was not the other half the same amount as your half?

A. Yes, sir. The other half is supposed to support the deputies for that year.

Q. Now, what I want to know is how much the other half divided among your deputies amounted to?

A. The other half you mean for that year?

Q. For the year 1884?

A. \$3.13.

Q. To be divided among how many deputies is my question?

A. Among two at that time.

Q. For the entire year 1884?

A. That is all I received that year. There are several months entirely in blank when I didn't receive a dollar.

Q. Did you make any arrangements for the compensation to your deputies outside of this sum during that year?

A. No, sir.

Q. Was it not, then, a necessary result between you and your deputies that such an amount as was necessary for their personal expenses should come from these illegal fees which you have previously referred to?

A. So far as regards the illegality of fees, I cannot say, Mr. Parsons, because I know nothing of the illegal fees.

Q. Perhaps you can answer this for me: How by arrangement between your deputies could they be compensated for services which they rendered to you except by exactions of the kind which have been referred to?

A. I presume the only way they could possibly do it was to make arrangements with the attorneys for whom they were prosecuting business. That is, for instance, the executions came to the office and would be delivered to one of the deputies, and for that the attorney, if he had particular desire to press the case, might make an arrangement to give the deputy something for extra exertion.

Q. Do you mean to be understood that that system was not going on during your incumbency?

A. It was never called to my attention. No case of that kind was ever called to my attention.

Q. But by the very facts which you have now testified to, was it not necessary that the deputies should make an arrangement of that kind or starve, unless they had private resources ?

A. I may state that I never received this book which has given me this information until the last few months.

Q. But you received the money ?

A. They wouldn't credit me with anything except what they gave me.

Q. That was for 1884, \$3.13 ?

A. Yes, I presume I received that money.

Q. And that is all ?

A. That is all ; that is what was credited to me.

MR. PARSONS : I understand, Mr. Chairman, that Mr. Ridgway is here, having been excused from some engagement in Court for the purpose of attending, and I think perhaps it is due to him that we shall ask Mr. Stegman to stand aside until we can examine Mr. Ridgway.

James W. Ridgway, recalled and further examined.

MR. GOODRICH : I believe, Mr. Ridgway, you have just convicted a burglar, have you not ?

THE WITNESS : I have, sir.

MR. GOODRICH : I congratulate you, sir.

THE WITNESS : Thank you.

MR. GOODRICH : That has been the reason why you have not been in attendance earlier to-day ?

THE WITNESS : I have been trying some cases.

By MR. GOODRICH : **Q.** I notice on page 628 of the printed record, being the second page of the list of indictments presented by you, a great many cases of indictments of 1883 and also of 1884 transferred to the Oyer and Terminer ?

A. Yes, sir.

Q. Have those cases been tried ?

A. No, sir.

Q. And what is the reason of the transfer ?

A. That same objection was made to continuing cases in the Sessions, and a suggestion was made that they be transferred to the Court of Oyer and Terminer ; a suggestion of that kind was made.

Q. A suggestion by whom ?

A. I cannot tell exactly by whom ; I don't know but it is somebody engaged in the cases of the prosecution. I cannot name who they were. I will explain to you : while we were trying these pool cases we had a large number of people in jail, and it was suggested, in order that these pool cases should not lie over and so that we could also continue the trial of the jail cases, the pool cases should be transferred to the Oyer and Terminer ; whereupon I gave notice to counsel on the other side that I would bring them up for trial. The cases were transferred and were moved before Judge Pratt, who said he would not set aside his calendar to try a lot of misdemeanors, but that we might come in in about a week and he would entertain another motion : whereupon I gave notice for another day, about a week off, and counsel again appeared and I moved the cases -all the cases, for trial again, and Judge Pratt said he would not try them then.

Q. I want you to come back to the reason why they were transferred from the Court of Sessions to the Oyer and Terminer?

A. In order that the people who were lying in jail and waiting to be tried, might be tried, and, at the same time, the pool cases might be tried.

Q. How would the transfer from Sessions to the Oyer and Terminer hasten the trial of people in jail, when you had the discretion to call one case or the other, as you might choose, and give it the preference?

A. Because if I moved the pool cases in the Sessions I couldn't try jail cases; and if I moved jail cases in the Sessions I couldn't try pool cases; and in order that both might be tried I removed the pool cases into the Oyer and Terminer.

Q. I understand that you had power to call up either the

burglary and other criminal cases of that class, or the pool cases, just as you might determine, although both were in Court of Sessions?

A. Yes, sir.

Q. What delay would there have been, therefore, in trying the jail cases if you had given them preference over the pool cases?

A. No objection.

Q. Or what delay would there be?

A. A delay in what?

Q. In trying the jail cases?

A. There would be no delay if I moved them; but if I did move I couldn't try pool cases; and if I moved the pool cases I couldn't try jail cases.

Q. I am not talking about the trial, but you have stated that you moved the pool cases into the Court of Oyer and Terminer?

A. Yes, sir.

Q. And a large body of them were moved into the Oyer and Terminer on the 9th day or October; some of them being the cases under General Catlin's administration, and some of them under your administration?

A. Yes, sir.

Q. But the simple removal of these cases to the Oyer and Terminer did not facilitate the trial of jail cases, did it?

A. It did, sir; it enabled us to go right on and try all jail cases.

Q. Why did it, when you could have tried the jail cases whether these cases for pool selling were still in Sessions or not?

A. I don't quite understand you, Mr. Goodrich. I don't grasp your meaning.

Q. I will go back. As District Attorney you could call one case or another as you chose?

A. Yes, sir.

Q. Irrespective of the time of the indictment?

A. Yes, sir.

Q. The simple fact of there being a hundred cases in

your office doesn't prevent your trying No. 10 instead of No. 1, does it?

A. No, sir.

Q. So that if you remove the first fifty cases from the Sessions to the Court of Oyer and Terminer it would neither expedite nor delay trial of the other cases, would it?

A. Yes.

Q. Inasmuch as you have the right to call one or the other as you choose?

A. As I understand your question: If the cases still remain in the Court of Sessions it would not delay the trial of the cases that I choose to move? It certainly would not.

Q. That is what I asking you. Now, I ask you whether the actual removal by you of these cases into the Oyer and Terminer has not been to prevent the early trial of the cases?

A. No, sir; that was done that we might occupy the Oyer and Terminer in the exclusive trial of these cases, while we still ran the Sessions in the trial of the other class of cases that I have spoken of.

Q. But the fact is that these cases that you have removed to the Oyer and Terminer have not been tried, is it not?

A. No, sir; they have not. I am not Court and District Attorney both.

Q. I noticed that you said, and I thought by an error, that only two cases remained over from General Catlin's administration?

A. If I had my data I could tell you.

Q. I think you are mistaken about that?

A. I had some memoranda here on my last examination that I could turn to, but I have not got them now.

Q. Look at page 629 of the printed record; isn't it true that the following cases, which were indictments under General Catlin's term, remained over at the commencement of your term, namely: Peter J. Meany, William R. Jones, John Cummings, Abraham De LaMotte, Henry De LaMotte, Peter J. Meany, William Jack-

son, Timothy Perry, Edward Howard, Walter Foster, Andrew J. Philips, James E. Brown, Garrison Morris, Richard Fortune, James Dunphy, Albert Burtis, Michael Huber, John Finnegan, Richard Fortune, Michael Huber, Garrison Morris, Michael Huber, William Boyle, Jamer Dunphy, Thomas Lennon, James E. Brown, Garrison E. Morris, James Dunphy, Richard Fortune, Jane A. Madigan, James F. Quigley, William Vincent ; and a lot of others under the names of John Doe, Richard Roe, Patrick Roe, Michael Loe and other fictitious names ?

THE WITNESS : Let me ask you, are you reading from the statement that I handed to you ?

MR. GOODRICH : This is printed from the list that you handed me.

THE WITNESS : Then I abide by that statement. If I made the statement that there were but two remaining there, I don't recollect it. It may have been a qualified statement ; there may have been some special indictments about which I made a qualified statement of that kind.

James W. Ridgway.

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A. I don't know, sir, whether they do. I do not recognize any name which you have called except that perhaps of John W. Mangen. I can't recollect all the several thousands of names. You may as well ask the president of a bank to testify to the condition of the accounts of the customers of the bank from recollection.

MR. GOODRICH : But we gave you distinct notice, Mr. Ridgway, to give such a list as that in response to our subpoena.

THE WITNESS : I ask you in fairness whether before I came into this room I didn't ask you whether I should bring the books ?

MR. GOODRICH : You did.

THE WITNESS : And didn't you tell me I need not ?

MR. GOODRICH : Yes, sir. It is very proper that that should appear. You did ask that question, and I did tell you that you need not bring them at that time, that I was not ready at that moment to use them.

THE WITNESS : If you will call Mr. Walkly, he has the books and all data, and you will find it correct from his statement.

BY MR. GOODRICH : Is it true that you cannot explain what I have asked you ?

A. I cannot explain from memory.

Q. Can you tell what was done or why sentence was not executed upon Hugh O'Donnell, who was convicted of gambling on the 19th day of February, 1885 ?

A. I never heard of the case in my life.

Q. I ask you the same question of William Hastings, of the same date ?

A. I don't know ; I suppose all these matters are of record, and I never heard of the case.

MR. GOODRICH : Can you bring the records here ?

THE WITNESS : Yes, sir.

MR. GOODRICH : Will you do so at once ?

THE WITNESS : Yes sir. Mr. Kellogg, will you go

over to the office and tell Mr. Walkley to come over and bring all the records of the office for the last ten years.

Q. Thomas Glass, sentenced for pool selling and fined \$500; do you know anything about that case?

A. I do, because I tried it personally.

Q. I understand he served his sentence?

A. Yes sir, and a part of his fine was remitted.

Q. He was a part of the time under sentence for non payment of the fine, and then it was remitted?

A. Yes, sir.

Q. Who remitted it?

A. Judge Moore.

Q. Can you tell by referring to your minutes why sentence has not been passed upon William F. Reardon, convicted of pool selling February 19th, 1885?

A. I remember William F. Reardon case was prosecuted to judgment; it remains only with the Court to sentence him. He was brought there for sentence.

Q. Is it not the duty of the District Attorney to move for sentence?

A. I can't go there every week and bring his case up to move it for sentence. I moved for sentence and the Court suspended sentence. The Judge who did that will have to explain it to you.

Q. When did you call him for sentence?

A. Right away. I said at the time he was convicted, "I shall move for this sentence at once—within two days." The Code provides for that, unless he waives the right. I moved for sentence at once, and sentence was not passed, and he was brought there again, I suppose three or four or five times.

Q. Is the same true of John Riker in a case of the same kind?

A. I don't recognize the name. Was he a pool man in the city?

Q. No, policy.

A. I don't recognize that name; I don't know whether I had anything to do with the prosecution.

Q. He was convicted February 19, 1885?

A. I don't recollect.

Q. And Henry Place, convicted at the same time ; do you know whether either one was sentenced ?

A. I am under the impression that I prosecuted Henry Place, but I am not certain. There was one of the policy cases where the officers arrested the man, and Col. Lynch appeared for the defence. The man was convicted, and afterwards the police officer who testified against him came into court and said he was mistaken ; that he was not the man, and he brought the brother of this man, and presented him to the judge to show the strong resemblance of the two men, and I think the judge just let it stand that way. That may be the case of Place, for all I know.

Q. Returning for a moment to Thomas H. Glass, convicted of pool selling. Was that for pool selling at the races or in the city ?

A. No, sir ; Thomas H. Glass was proprietor of a saloon directly opposite the City Hall. A police officer went in there and bought a ticket and arrested Glass.

Q. Can you tell anything about the trial of a man named Herman Schneider, under an indictment against a person named Frank Schneider ?

A. No, I don't recollect that. Is that a gambling case ?

Q. That is a gambling case, or a pool case—a pool case ?

A. No ; I don't recollect.

Q. Frank Schneider, tried February 19, and convicted ?

A. I don't remember.

Q. Did you try it ?

A. Well, I don't recollect the name ; I can't recall all the names.

Q. I understand that the Herman Schneider case was called up under the indictment against Frank Schneider, and that a person thus called was acquitted ; do you remember about that case ?

A. I don't recognize the name now at all. I have always heard of that double in the McDougal case, but I never heard that they had shifted it to the Schneider case.

Q. Did you know of a letter from Mr. Comstock, of which I hand you a copy ?

A. (Examining a type-writer copy of a letter). I can't tell you.

Q. Can you tell by looking it over?

Q. No, sir; I received a number of letters from him, and when I went to Albany before the Governor. I took the letters with me and all the documentary evidence; and whether I left it with the Governor's papers and it was mislaid. I cannot tell you. I have looked for that since I returned, and have been served with the subpoena. I can't find any, and am inclined to believe I left them all there.

Q. Did the examination of this letter refresh your recollection; did you receive substantially such a letter; that is what I want?

A. I could not tell you; I don't recognize it.

Q. Do you suppose it is as easy to stop pool selling as policy playing; it is a mere matter of opinion, Mr. Ridgway?

A. Well, I don't know, sir; I can't tell you whether it is or not.

Q. You think you have stopped policy in Brooklyn?

A. We never have any complaints from it; I only judge of that offense as I do of all offenses; we only judge by the complaints

Q. One other question: You spoke of one case where at the suggestion of Mr. Comstock you prosecuted a person named Angus for selling obscene articles; do you remember the case;

Q. Yes, sir; I remember the case.

Q. How old was the man that you prosecuted?

A. I don't know his age; he was a young man.

Q. About twenty-five or twenty-six?

A. Well, he didn't look to me to be over twenty; he was very small and very juvenile in appearance.

Q. Will you say that he was not over twenty-five years of age?

A. I wouldn't testify any way in regard to it.

Q. You gave the impression in your testimony that the other person who was a witness on that trial and who was sent by Mr. Comstock to purchase the article of Angus as

you claimed, was a mere boy; will you swear that that witness was under twenty?

A. Under twenty?

Q. Yes.

A. I certainly would not swear to the age of anybody.

Q. You did swear that he was a mere boy?

A. Oh, yes; I said a young boy.

Q. What do you mean by that?

A. I might give you the definition that they give in Ireland, that all are boys until they are married. I judged from his juvenile appearance that he was a young boy, and from the fact that he was only earning about four or five dollars a week working for a living.

Q. Will you swear he was under twenty?

A. Of course I wont swear to any person's age.

Q. But you have given the impression, and it has been sent abroad, that he was a mere boy, and the impression that I got was that he was a young fellow twelve or fifteen years of age. Now I ask you to either correct that or state that you will say that he was under twenty years of age?

A. I take nothing back.

Q. Will you say that this man was under twenty years of age?

A. I don't say that he was under twenty, and if you are under that impression you may disabuse your mind of the error, but I wouldn't swear to his age or anything of that kind.

Q. Will you swear that you meant to convey the impression that he was probably fifteen years of age?

A. I meant to convey the impression that he was a young boy.

Q. Suppose I tell you that he was twenty-three, would that refresh your memory?

A. Not in the least.

BY MR. PARSONS: I would like to know whether you think that those two persons, the accused, whose name was Angus, and the witness, are fairly characterized by this passage in your testimony on page 690 of the printed record, in which you designated them as follows: "It was

a case of a young boy who was charged with selling an obscene sleeve button. He was the only son of a widow in Brooklyn, and I defended him gratuitously. I thought that sending another little boy to buy that sleeve button from him for the purpose of sending him to the penitentiary called for the severest denunciation that any lawyer could pour down upon him."

A. Yes; I think that is just and fair.

Q. You think it is?

A. Yes, sir, very.

Q. Even if the accused might have been twenty-five years of age and the witness over twenty?

A. Not the way you put it, although he may have been twenty-five years of age. I made my statement upon my idea, judging from his appearance and from the fact that he was in receipt of such a small salary, and from his general manner. I think you would have formed the same conclusion if you had seen him.

Q. What was the point then of your denunciation in your testimony of one little boy making a purchase from another little boy?

A. I don't quite catch your idea.

Q. What was the point of your denunciation if it was a case of one person twenty-five years of age, and another who was perhaps over twenty? Isn't all the point of your denunciation gone the moment those persons cease to be little boys according to the fact?

A. No, sir; the point of my denunciation was based upon the fact that the act was a reprehensible one, as I thought.

Q. You mean getting evidence to convict of that offense?

A. Getting evidence that way; inducing a person to commit a crime in order that you may punish another person for that crime that you have induced him to commit. That is reprehensible.

Q. Was that the crime of selling or having the sleeve button?

A. That I cannot answer, unless I look at the record of the office so as to see what the indictment was.

Q. If you are in doubt about that, how can you speak about the transaction as reprehensible?

A. It was either for the exhibiting of or the selling of the thing. I think he was indicted for the selling, but I will not be positive as to that.

BY MR. GOODRICH: Q. That Angus was a pretty bad fellow, was he not, in your judgment?

A. I never knew him.

Q. Well, I mean as to the facts developing themselves in the examination and on the trial?

A. No, sir.

Q. Don't you know that he had a list of young women that he had seduced?

A. No, sir, I heard something about that at the time but where they got the information from I don't know; but as the prisoner denied it and he was my client, I believed the prisoner that it was not so.

MR. GOODRICH: I take it all back. I supposed it was while you were District Attorney, and that you were the prosecuting officer.

THE WITNESS: No, sir, I was defending.

MR. GOODRICH: It is all a misapprehension. I thought that you prosecuted him, or I should not have asked you the question if he was a bad man.

THE WITNESS: This boy's father was an old fireman, and they came to me to get me to defend him. This was his boy, and I defended him.

BY MR. GOODRICH: Q. You have been counsel for Paul Bauer previous to going into the District Attorney's office, have you not?

A. Yes, sir.

Q. How long?

A. Up to the time of my election.

Q. And how long previous?

A. I can't tell you; I had several cases for him.

Q. Two or three years?

A. That much anyway.

Q. Is your brother his counsel now?

A. I never heard of it.

Q. Were you counsel for any other of the gamblers who were indicted ?

A. I never appeared for one in my life.

Q. I did not ask you whether you appeared, but whether you were counsel ?

A. I never was counsel; I never was interested in racing; I never sold a pool or kept a gambling house.

BY MR. GREENE: Q. Some testimony has been given here this morning by some members of the Grand Jury about something you advised with reference to the Sheriff. Was the Sheriff at that time charged with any crime before the Grand Jury ?

A. He was not.

Q. At any time during the session of the Grand Jury ?

A. No, sir. The Grand Jury asked me if I would subpoena him and then have him instructed in the presence of the Grand Jury as to what they desired him to do. I served both him and the Under Sheriff with subpoena and they appeared in obedience. I then stated that the Grand Jury had determined that these violations of law existed, and that they must be stopped, and that they directed the Sheriff to do it, and the Sheriff said something about not having a sufficient number of men ; whereupon I asked the Grand Jury to authorize the appointment of men, so that if the question came up in the Board of Supervisors as to the authority of the Sheriff to employ deputies to go down there the Sheriff could say he did it in obedience to the request of the Grand Jury. Whereupon the Grand Jury authorized it and the Sheriff employed deputies and went down there and stopped it.

BY CHAIRMAN BACON: Q. I hold in my hand a letter which requests me to ask you if you knew anything about the horse Jim Ridgway that ran down there ?

A. I once heard of a horse named Jim Ridgway ; I saw it in the newspaper ; I remember it from the fact that he was always the last in the race.

MR. GOODRICH : Not like his great prototype and namesake

Q. Do you know ~~when~~ he was running there?

A. No, sir. Somebody called my attention to it once that there was such a horse.

BY MR. COLE: Q. Have you any further explanation to make about the Grand Jury?

A. I was only going to say this: that the Sheriff was called up, and the next night something appeared in the paper to the effect that the law had still been violated that day. "Well, now," I said, "gentlemen, I am doing my utmost, as you will see, to carry out your instructions in this matter; it strikes me that as the Sheriff states that he was on the track with those deputies and witnessed no violations of law, the writer of that article in the paper may be able to give us the facts upon which the article was based." Whereupon we subpoenaed the writer of the article and the editor of the Brooklyn Union, the paper in which it was published, and if I can be permitted myself I will bring the testimony that they swore to before the Grand Jury bearing upon it.—Now, I want to say that if any member of the Grand Jury states that I wilfully ill-advised them and misinterpreted the law, whoever he may be, he states that which is false. If he states that I purposely misadvised him with regard to it it is untrue. There was no occasion for me to answer such a question. I think the question asked me was, after an adjournment of the Grand Jury one day out in the lobby, and the following morning I was asked about it again before the Grand Jury. But otherwise there was no subject before the Grand Jury about the indictment of the Sheriff. It is a question constantly asked every day in the Grand Jury room about every crime and almost every matter before them. I don't recall an inquiry as to advice upon the law or anything of that kind. I have always said to the Grand Jury "Gentlemen, if your view doesn't coincide with mine the Court is your adviser; go into the Court and ask the Court."

MR. COLE: My object in asking is that several witnesses have testified to that this morning while you were not present.

THE WITNESS : Well, sir, that is my explanation.

BY CHAIRMAN BACON : Q. They said you read something from some law ; what was it ?

A. Upon this question ?

Q. Yes.

A. I have no recollection, Mr. Bacon. You see we have thirty or forty cases a day, and we refer to the law fifty times. I suppose, in a day in the grand jury room and look it up.

BY MR. GREENE : Q. The point seems to be this : they assert that you told them that if the Sheriff were indicted, he would be disfranchised and lose the emoluments of his office ; and they are quite certain about this word " indictment," and that there was no reference to conviction ?

A. I guess the error results from that, that they misunderstood the word. If I used the word indictment, why it was unintentional ; but I am perfectly certain about using the word conviction. Of course I couldn't have said anything else but that.

BY MR. GOODRICH : I have been requested to call your attention to a case of murder or homicide, I think of a man named Reil ; do you know the case of Reil ?

A. I do very well.

Q. And I think it due to you that you shall have the opportunity to give the public an explanation of the case—why that case has not been tried ; if you will kindly commence and state it from the beginning ?

A. Mr. Walkley can give you all the dates as to when the case was set down and all about it.

Q. Would you prefer to do that ?

A. He has the data. I can only state from hearsay. That is, that when they called the witnesses they did not respond. We set the case down and sent for the witnesses and they did not respond.

Q. Will you state who the person killed was ?

A. The person killed was H. Reil.

Q. Who was he ?

A. He had been a supervisor of the 14th Ward.

Q. Had there been an election with which H. Reil had been connected?

A. It grew out of his political quarrel.

Q. And then he was afterwards killed?

A. Yes, sir, he was struck on the head.

Q. Who was indicted for that?

A. He was struck on the head and lived for some time after. I saw him many times after. When he came to the office I saw him. I knew H. Reil very well. He came into the office and talked about it, and there was no disposition on the part of Reil to prosecute in any way.

Q. I am rather giving you the opportunity, Mr. Ridgway, because complaint has been made to me about it?

A. But I cannot make any statement as to Reil, because the man is dead and that wouldn't be fair.

Q. Is there any reason why that case has not been tried?

A. Because we have never been in a position to try it.

Q. Why not?

(The witness has a consultation with Mr. Walkley, and then answers as follows:)

A. If you will look at the testimony, I am informed by Mr. Walkley that the doctor testified that the deceased died of Bright's disease; he died six months after the assault. If that is the case, of course we couldn't prove the *corpus delicti*.

Albert H. Walkley, being duly sworn and examined as a witness, testifies as follows:

By MR. GOODRICH: What is your position in the District Attorney's office?

A. Chief clerk.

Q. Have you been such during all Mr. Ridgway's administration?

A. Yes, sir.

Q. Did you make up the schedule or the list of indictments presented by Mr. Ridgway which is found at page 628 of the printed testimony.

A. I made the draft of it, and it was copied by one of the assistant clerks in the office.

Q. Will you tell me from the books, which I understand you have here, whether Thomas Riker, arrested June 30, 1881, was indicted?

A. I haven't any account of any such person.

Q. Edward Meyer, arrested June 3d, 1881?

A. I haven't any account.

Q. Or Henry Van Vorn, December 16, 1881? A. I have no record.

Q. Well, then, there has no indictment ever been found against either one of these three persons?

A. I didn't keep this book at the time. It is supposed to be a record of every indictment found. I don't know anything about the book before the time I began to keep it. The books since I took charge of it I will swear to.

Q. In your book is there any record of an indictment found against John R. Mangan, which resulted in his arrest September 24th, 1883; in other words, is there an indictment of that date?

A. I think Mangan's indictment appears on my list.

Q. No, Mangan's indictment appears under another date?

A. John R. Mangan, September 21, 1883.

Q. Indicted for what, policy or gambling? That doesn't appear on this list at all, does it?

A. I am positive it would on my original draft. It may have been omitted in copying.

Q. Look at Edward Fagan, September 23, 1883?

A. No record; no presentment on September 25th.

Q. That is the date of the arrest of Edward Fagan, September 26th, 1883; he is one of the policy men?

A. Here is the presentment, but I don't know whether it refers to that or not; it is on September 21, 1883, Richard Fortune, Patrick Roe, John Doe, John Brown, James Murphy and others.

Q. But you don't find Edward Fagan's name there?

A. No, sir.

Q. Look and see whether there is an indictment against Charles Smith, September 24th, 1883?

A. No record.

Q. Is there a record of Michael J. Tully alias Michael J. Kelly, September 24, 1883?

A. None of Tully; I will look for Kelly; there is no account; I have no record.

Q. Do you remember whether Mr. Ridgway, on November 20, 1884, received a letter, of which I now show you a copy, in regard to that subject?

A. (Examining the type-written paper heretofore shown Mr. Ridgway.) I never saw it before.

Q. Have you got the bench warrants of June 30, 1884?

A. I think I stated at the last session that I thought I had them in my desk, and I think so still; I haven't them here, but I can find out certain.

MR. GOODRICH: I want particularly to get those; I asked you to produce those.

THE WITNESS: I didn't so understand; I will produce them at the next session, if they are there; I am not positive that they are there; there are some that are not reported, for the reason that the parties appeared and gave bail before we had a chance to execute them.

MR. GOODRICH: Is John Mitchell here?

THE SARGEANT-AT ARMS: No, sir.

MR. RIDGWAY: Mr. Chairman and Gentlemen of the Committee, will you permit me to represent myself and to ask the witness, Mr. Van Loan, who is now here, and who has just produced a paper, some questions on cross-examination, with regard to that paper?

MR. PARSONS: Wait a moment. I think we are scarcely ready to examine Mr. Van Loan. We have not called him yet.

MR. RIDGWAY: I understood that he testified that he had some paper signed by me. I deny that he has any paper signed by me, and as he has a paper now here, let him produce such a paper if he has it.

MR. GREENE: I don't think, Mr. Ridgway, he said that.

MR. RIDGWAY: I was misinformed then.

MR. VAN LOAN: No, sir; I did not say that.

MR. PARSONS: I may say here that the stenographer informs us that it is desirable for him to have an adjournment. Before an adjournment is taken, I wish to ask Mr. Stegman a few questions, so that if he is not prepared to answer he can have until to-morrow to put in shape the information I wish him to give the Committee.

Lewis R. Stegman recalled, and further examined:

BY MR. PARSONS: Have you with you books or papers from which you can inform the Committee what was the total amount that came to you from your office in each of the three years that you were Sheriff?

A. Yes, sir; I can give you a memoranda that I made.

Q. Have you also books or papers which will show how much out of this gross sum was disposed of for disbursements in your office in each of those three years?

A. Yes, sir; I haven't that with me, Mr. Parsons.

Q. Can you have that information to-morrow morning at ten o'clock?

A. I shall produce the books here.

Q. Have you books or papers that will show what disposition was made by you of all the money which came to you from the office of Sheriff during the three years?

A. As given to me by my bookkeeper; yes, sir.

Q. You then understand the question? What I wish to know is, whether you have books or papers which will show what was done by you with so much of the money as came into your actual possession?

A. My personal expenditures, do you mean?

Q. I have said nothing to you about personal expenditures; but what I wish to ascertain is whether you have the means of informing the Committee of what was done with the money which came into your actual possession?

A. I have, very naturally ; yes, sir.

Q. Have you that information here now ?

A. I have not as far as these books are concerned, because I bring down all of them, but I have a statement which was made up by my bookkeeper to me, covering the years 1882, 1883 and 1884, and this was the last statement made to me.

(The statement referred to by Mr. Stegman is handed to counsel.)

MR. PARSONS. Have you any objection to letting me take this ?

THE WITNESS : I have none. But I have no copy.

MR. PARSONS : I will not detain the Committee longer with the examination of Mr. Stegman to-day, but will resume it to-morrow morning.

THE WITNESS : What do you desire me to have in the way of books ?

MR. PARSONS : I desire you to be prepared to-morrow to state, first, the gross amount received by your office during each of the three years you were Sheriff.

THE WITNESS : Yes, sir.

MR. PARSONS : Next, all the disbursements made out of those amounts. Thirdly, what sums for each of those three years came into your actual possession ; and then what was done by you with these amounts ?

CHAIRMAN BACON : Mr. Stegman, can you explain why you received from poundage the first year over \$500, and in the last year but \$3.13 ?

THE WITNESS : From the fact that the poundages were not properly returned to me by my subordinates who had charge of the poundages.

CHAIRMAN BACON : There was no difference in their receipts, probably ?

THE WITNESS : Quite likely not, sir.

Adjourned to to-morrow, Saturday, March 26, 1887, at ten o'clock.

COMMON COUNCIL CHAMBER,

BROOKLYN, N. Y.,

March 26, 1877.

Met pursuant to adjournment, all the parties being present, as stated heretofore.

CHAIRMAN BACON: Gentlemen, please come to order.

Lewis R. Stegman, recalled, and further examined as follows:

BY MR. PARSONS? Q. Produce, please, the books in which was kept the account of your receipts and expenditures while you were Sheriff?

A. I have the only two books that I now have in my possession, or are obtainable by me; one is the journal containing all receipts and all disbursements from the opening of the office until it was closed. This one also contains entries by the book-keeper, running along specifically, every single item by months, over every portion of the term.

Q. What do you mean by saying that you have produced all the books which you now have and that are obtainable by you?

A. I mean that some of my books I have never seen since the day I left that office. I have been totally unable to tell where they are; I have not seen them.

Q. What books are they?

A. My cash books, the ledgers, and whatever other books were necessary to keep the business of the office.

Q. When did you last see these missing books?

A. In the early part of the year 1885, in my then private office in the Garfield building, after I had left the office there and when I was settling up my private affairs.

Q. Do you mean that the books were in your possession at the expiration of that term of office and were taken out of you after you left the office?

A. Yes, sir ; were taken over to this private office wher I was settling up my official affairs.

Q. What book was the book you describe as a cash book ?

A. The cash book was the ordinary cash book, kept in book-keeping style, containing the receipts and disbursements ; the same thing precisely as is the case of the now Sheriff.

Q. Do you mean then that there is not in existence, so far as you know, a book of original entry showing amounts received and disbursed by you while you were Sheriff ?

A. That book shows, and the other one called the journal, which you have there.

Q. Is this the book of original entry ?

A. Yes, sir ; in the handwriting of my clerk.

Q. What was the service or use of the cash book ?

A. Simply for daily entry, day by day, of the amounts received and dates of expenditure.

Q. What was the use of the book described by you as a journal ?

A. I presume, Mr. Parsons, it was a copy in a certain measure of the cash book, except kept in a somewhat different form. I am not sufficiently versed as an accountant or bookkeeper to tell the exact difference.

Q. Who made the entries in the book which you have described as a cash book ?

A. My bookkeeper, John S. Bowen.

Q. Who made the entries in the book which you have described as a journal ?

A. My bookkeeper, the same man.

Q. Where is he ?

A. He is dead. He died soon after he left the office.

Q. Is he the only person whose handwriting appears in these two books ?

A. Yes, sir.

Q. Is it not the fact that that cash book, of which you speak, is the book in which were first made entries of cash received ?

A. Quite likely, yes, sir. I would be apt to do that myself, keeping the cash book.

Q. What knowledge have you that the journal corresponds with the cash book ?

A. None whatever, beyond the simple fact that I find the items there are familiar to me.

Q. When did you last see this missing cash book ?

A. I think about the month of April, 1885.

Q. In what particular place was it at that time ?

A. In the fourth or fifth story of the building known as the Garfield building, on Court street.

Q. I rather wish to ascertain whether it was in an office which was occupied by you for your private business ?

A. Yes, sir.

Q. In what particular repository in that office was that book kept ?

A. They were in a desk which I had removed from the sheriff's office to this office, a personal and private desk of my own.

Q. When did you first discover that this cash book was missing ?

A. I never discovered it until after I had returned from Connecticut, less than a year ago ; and since that time I have been totally unable to find any of my larger books, with the exception of these, official books of the office—any of the books relating to the business of the office except these two.

Q. Mr. Stegman, I wish you to keep your attention confined to this missing cash book. Have you made the best explanation which you can of the disappearance of that book ?

A. Yes, sir.

Q. What other books have disappeared ; describe them ?

A. The ledger, and I don't know of any others that are necessary to be kept. The cash book and the journal and the ledger.

Q. Where was the journal kept ?

A. The journal was kept in the office at the same time.

Q. Was it kept in the same place with this missing book ?

A. Yes, sir ; I should say so. They were always kept in the same place in the sheriff's office ; and I remem-

ber their being kept in the same place in the Garfield building.

Q. Explain how it was possible that the cash book should disappear, that being an original book of entry, and the journal should not?

A. In the month of May, 1885, I had left the City of Brooklyn. My own private business at that time had not been finished up, and I had entered into business up in Connecticut, in the pig iron business, in the manufacture of pig iron; and from the time I left the office, leaving the business in the hands of the Under Sheriff and bookkeeper, I left all my books in their possession for the settlement of my business. And while I was attending to private business of my own in Connecticut, I seldom had occasion to come to the city again, and with the exception of one occasion, in June, 1885, I never found my bookkeeper from the time I left to go to Connecticut until I left. He died in the meantime.

Q. What persons during your absence had access to the office and to the desk in which your books were kept?

A. The Under Sheriff and my executive clerk.

Q. Are they the only persons?

A. Yes, sir; I judge that they were the only persons; they would be the only persons entitled, with the exception of the bookkeeper.

Q. Who is your Under Sheriff?

A. Francis Haskinson.

Q. Where is he?

A. He is in the City of Brooklyn. He was in Wallabout, or he was to move—he has moved from there.

Q. Who was your executive clerk?

A. He is in Grand street.

Q. When did you last see them?

A. I saw the Under Sheriff on Tuesday last, when I obtained from him a book which gave me the names of the deputies appointed throughout this city; and, I think, once since then I have seen him just for a moment. He is in business in the city.

Q. And when last did you see the executive clerk?

A. I saw him on yesterday afternoon.

Q. I wish you to describe particularly what efforts you have made to find these books which have disappeared ?

A. By inquiring of the Under Sheriff as to what had become of my books. He said that he had transferred to me every book in his possession, every book of any kind or character. The executive clerk states that he has no books of any kind or character belonging to me.

Q. Where do you keep your private papers and books at the present time ?

A. In my rooms at 109 Rossiter street. That is where my books, with the exception of these I am producing here now, all my business details are kept.

Q. When did you make the search which resulted in your finding these two books which you produced ?

A. I will state to you, sir, that these books which are produced I found with the books that were transferred to me by the Under Sheriff this last fall I think, about the month of September, when I took them from his possession and transferred them to my own room.

Q. Does it come down then to this, Mr. Stegman : That when you left New York on this private business which took you to Connecticut, your books were in an office to which had access your Under Sheriff, and your executive clerk ?

A. And the bookkeeper, yes, sir.

Q. And the bookkeeper ?

A. Yes, sir.

Q. And that subsequently —

A. And my foreclosure clerk, who died while in the office.

Q. And that subsequently, according to the communication communicated to you by your Under Sheriff, there were transferred to you all the books that were in the possession of those subordinates ?

A. Yes, sir ; was stating —

Q. One moment, please. Won't you answer my question ?

A. Yes, sir.

Q. And the books which you now produce, the only books which you are now able to produce, are these two, one

which you have described as a journal and the other which you have described as a cash book ?

A. The other one is a complete copy or a complete statement of all the business details, in specific, shape of every single month of all the three years during which I held the office of sheriff.

Q. I do not recollect what date you fixed as that upon which you discovered the disappearance of the cash book; will you be kind enough to repeat your answer in that regard ?

A. I never knew what books had disappeared until September, 1886, when I obtained the books which are now in my possession. I have some smaller books somewhat similar to this (cash books), but they are just explanatory, and containing brief memorandum, and one thing and another of that character. I didn't bring those down with me. These contain the business details of my office.

Q. Do you mean to be understood that in September, 1886, your attention was drawn to the fact that this cash book had disappeared ?

A. I noticed that I had only these books, and that the books which I knew had been larger books, and in which my entries had been made, were not with them.

Q. Did you do anything upon making that discovery upon that date ?

A. By asking the Under Sheriff as to what had become of the other books, and he said he did not know, but all the books that were in his possession had been transferred to me and were then in my possession.

Q. What was the course of business while you were Sheriff, with reference to making entries in any books or upon any slate or paper of cash receipts ?

A. The executive clerk would place upon the memorandum that he would make in the course of the day, or should properly have done so, all the details of whatever work had occurred during that day.

Q. I only ask you with reference to money receipts ?

A. I am speaking of the money receipts; yes, sir. And then at the termination of each week he would make a transfer to the Under Sheriff of the receipts, together with

a statement of the amount received by him during that week. That was the arrangement I made for the purpose of having my business proceed properly.

Q. Where are those statements?

A. I don't know, sir.

Q. Do you mean that they have also disappeared?

A. Yes, sir.

Q. Can't you explain their disappearance?

A. I haven't the remotest idea, Mr. Parsons, and I should like very much myself to know.

Q. What other sources of information about money receipts by you while Sheriff have disappeared?

A. Well, pretty much all papers that I would like at the present time to have for the purpose of giving specific information in regard to the details of my business there have passed away.

Q. What do you mean by your expression "have passed away?"

A. Lost, mislaid or stolen.

Q. Well, are there any books or papers—I mean book or paper relating to your individual or private money transactions—which have met with a similar fate?

A. Yes, sir, pretty much all the papers that I would like to have had in my possession, which would have given me a great deal of information and have been a benefit at the present time, have disappeared.

Q. Now do you mean seriously to be understood, Mr. Stegman, that you can account in no way for this occurrence, the disappearance of all papers or books which will give information of the original sources about the money received by you while you were Sheriff?

A. Legally and morally, I presume that in the course of time I might be able to make that more manifest, Mr. Parsons. In the course of examination of my books, I find very gross discrepancies which would have served to benefit me financially.

Q. What do you mean by "discrepancies?"

A. I mean simply this: that there were large amounts of money received in the office which were never transferred to me.

Q. How do you know that ?

A. I have discovered it by the books that I received since September last.

Q. How could you tell that there were discrepancies from the books you have in the absence of the books which you say you cannot find ?

A. Exactly ; when I go over my larger books, which are the official books of my office, I discover that certain given things which were upon those books would have brought me a certain amount of cash capital, and I find in the entries made by my bookkeeper, which I have in my possession, that between the amount charged, or rather credited to me on my books, and the actual facts, there is a gross discrepancy.

Q. So far as you have satisfied yourself about such discrepancies are they all in one direction, and that is this : that apparently more moneys came into your office while you were Sheriff than you have anything now to show for ?

A. Yes, sir.

Q. Do you mean the Committee then to understand that it is impossible for you at the present time to show accurately, and in full, what items of money did come to you while you were Sheriff ?

A. With the discrepancies left out, the statements of my bookkeeper will show what was credited to me and what they permitted me to have.

Q. What I wish to ascertain is whether there exists at the present time, any means of showing the total amounts which came to you while you were Sheriff ?

A. Only by carefully accounting and taking the same method that I have adopted myself of going over the books and carefully analyzing them as I have done.

Q. How would you then discover the amounts which I understand you to state were not turned over to you, or accounted for to you ?

A. For instance, I will give you an example that will be very short and I think make it apparent to your mind.

Q. Does it bear upon the question ?

A. Yes, sir ; I think so.

Q. Very good.

A. During the three years of my term of office I received over the Executive Clerk's desk 14,120 odd executions, and each one of those executions were valued at the sum of 72 cents a piece. During my term of office I have no recollection of any single individual, attorney at law, who passed a single one execution over that desk who did not pay the regular seventy-two cents. The sum total of amounts which would have been passed and credited me, if I had received all, would have been ten thousand and a fraction and over, credited to me by reason of the books and statements made to me. They turned over to me \$3,000, making a difference of some \$7,500.

Q. That is to say, what you received was about thirty per cent. of what you should have received for that one item?

A. Precisely so.

Q. You say what "they turned over to you;" whom do you mean by "they?"

A. Well, the Executive Clerk and I judge the Under Sheriff, in transferring to the bookkeeper.

Q. Don't judge about it, Mr. Stegman. I want to know whom you mean when you speak of "they", as persons who have turned something over to you; whom did you then mean to refer to?

A. To the Executive Clerk who had charge of all the books—

Q. I don't ask that. I want to know who you referred to.

A. (Continuing)—and transferred them to the Under Sheriff. The Under Sheriff would make the statement to my bookkeeper, and would enter it upon his books for my benefit and knowledge.

Q. Do you remember in answering a question asked you few minutes since, speaking about somebody as having turned over something to you, and using the expression "they?"

A. Yes, sir.

Q. Who did you mean by that expression?

A. Those were the two; the executive clerk, who took the moneys and transferred them to the Under Sheriff, who

then transferred them to me, accompanied with the statement of account for the money.

Q. Have you made up, for the purposes of your examination, an account purporting to show moneys received by you while you were Sheriff?

A. Yes, sir. That is one accounting, sir, and here is another; and here is another, sir. That is my bookkeeper's statement to me.

Q. Were you here when Mr. Sheriff Farley was examined?

A. I was not.

Q. Have you read his testimony?

A. I have as I saw it in the papers. yes, sir.

Q. Did you have your attention called to his testimony about moneys received by him from the Board of Supervisors?

A. I don't remember that special point, no, sir.

Q. Did you not notice some testimony from him, or from Mr. McLaughlin, his Under Sheriff, about the advantage of a boarding house, and that the advantage was in proportion to the number of boarders; and using that illustration in connection with an account about moneys received from the Board of Supervisors?

A. I don't remember that particular portion of it, no, sir.

Q. Was there any such source of revenue while you were Sheriff?

A. Yes, sir.

Q. And in your case was the money which came from this source in proportion to the number of persons that you boarded?

A. Exactly.

Q. Now, state from whom you received such moneys, and what record there is of the amount?

A. The amount was received by me from the County of Kings, through the County Treasurer's Office regularly, about every month, after the bills had been properly audited by the Board of Supervisors.

Q. Have you a separate and distinct statement which will show the moneys received by you as Sheriff coming from that source?

A. I think this book, sir, will show that. I think it shows regularly by items (page 4 of the cash book), I think on the line there of "Criminal Board," running through the various pages. Those are for the various months, Mr. Parsons, of the various years. That is a summary of every item during the whole three years.

Q. In answer to an earlier question you handed me a statement purporting to give receipts, expenses and what are called profits, for the years 1882, 1883 and 1884. In whose handwriting is that statement?

A. That is in my own, sir.

Q. Is that an accurate statement?

A. An accurate statement, as I have made it up from that book.

Q. Not the cash book?

A. No, sir.

Q. By what name do you call the book from which you made up that statement?

A. Private book containing—well, I don't know what its specific name will be. I consider it a private book, gotten up especially for the purpose of showing details of all receipts of the office.

Q. In whose handwriting is that book?

A. The bookkeeper's.

Q. What in the statement you handed to me, is the meaning of the expression "receipts"?

A. The receipts, the sum total of each separate and distinct year.

Q. Does that mean gross money received?

A. Yes, sir, as credited to me.

Q. What is the meaning of the expression "expenses" on this statement?

A. All classes of expenses in the shape of salary and subsistence at the jail, and various expenses at the jail.

Q. And then the item of profit means the difference between these two?

A. Yes, sir.

Q. Between receipts and expenses?

A. Yes, sir.

Q. Am I correct in assuming that this is a statement of

receipts and expenses and what are called profits, so far as the same appear in the book which you have described as a private book?

A. Yes, sir, that is what I make it out ; after figuring it up that is what I make it.

MR. PARSONS : Then I will read to the Committee this statement.

(Mr. Parsons then read the statement as follows) :

1882.	
Received	\$70,127
Expenses	57,972.03
Profit	12,642.12
1883.	
Receipts	64,549.06½
Expenses	\$39,795.88
Profit	24,753.18
1884.	
Receipts	59,709.67½
Expenses	28,307.25
Profit	31,402.42

Q. Is that right ?

A. That is about what I find it, yes, sir.

MR. PARSONS (continuing) ;

Expenses	\$39,795.88
Profit	24,753.18
1884.	
Receipts	59,709.67½
Expenses	28,307.25
Profit	31,402.42

Q. Look at the calculation for 1882 and see whether there isn't something which requires explanation there ?

A. Yes, sir ; there is evidently. In making up my statement here, I must have got some figures wrong. \$12,154. I made that memoranda in pencil and afterwards copied it.

Q. Will you be kind enough to make the statement for that year correct, and if there is any discrepancy in either of the other years, correct it?

A. Yes, sir ; I will look it over. Perhaps in copying it or in figuring I made the mistake. I think in adding there I made the mistake.

MR. PARSONS : The witness corrects the statement of profits for 1882 so as to make the amount read \$12,154.97, instead of \$12,642.12.

Q. What is the explanation of the one-half cent which appears as receipts for 1883 and again for 1884?

A. I think that is precisely as I found it upon the book, Mr. Parsons.

Q. That isn't what I asked you at all, Mr. Stegman; I want to find out what that means?

A. In making up the amounts the book-keeper, in casting along his figures, finds in the month of December \$5,202.12½; in the month of November, say, for instance, \$5,047.14½; in the month of September, \$5,669.79½; in the month of August, \$5,486.83½; and in adding up he finds an additional half and he puts it down.

Q. Before we pass from this subject, I wish to ascertain whether it is your idea that there still remains in force statutes which graduate fees in the Sheriff's office according to the old standard, which recognize a shilling as twelve and a half cents, &c.?

A. No, sir; I don't know that I should particularly call that statute into effect, nor take it into consideration at any time; I don't remember any---

Q. Well, have you any personal knowledge about these numerous items which your books seem to show of receipts of amounts with the additional half cents?

A. No, sir; no, sir, I have not.

Q. Well, aren't you pretty well satisfied that your office never did receive a half cent?

A. I am pretty well satisfied; yes, sir.

Q. You doubled that item, did you not?

A. I presume I did.

Q. Now, Mr. Stegman, is there any record existing which will show accurately the purposes to which went these amounts for 1882, 1883, and 1884, which you put down under the head of expenses?

A. The expenditures?

Q. Yes.

A. I think that book there will show it.

Q. Do you mean the private book?

A. No, sir.

Q. The journal?

A. Yes, sir; the journal, I think.

Q. In addition to the statement, the figures of which I have just called to your attention, have you prepared for your examination something in the nature of an account purporting to show moneys received and disbursed by you while Sheriff?

A. The salary account and the amount of subsistence.

Q. The paper to which I refer is the paper which I now hand you.

A. This paper which you hand to me, sir, was the last accounting received by me from my bookkeeper.

Q. When did you receive that paper?

A. About the month of August last, when his wife, Mrs. Bowen, handed it to me as among the papers which I had never received from him.

Q. When do you suppose that paper to have been prepared?

A. According to a letter which was attached to this—attached to it yesterday—in the month of April, 1885, or perhaps the month of March. It is dated April 3.

Q. Does that mean the month of April succeeding the termination of your term of office?

A. Yes, sir.

Q. I will first inquire whether all the writing on the paper which I have just handed to you is that of your bookkeeper?

A. Yes, sir.

Q. I notice that at the bottom of the right hand second page there are some entries in red ink?

A. Yes, sir.

Q. In whose handwriting are they?

A. The same person; my bookkeeper.

Q. Does that paper contain a statement of what are called profits for the years 1882, 1883 and 1884?

A. Yes, sir.

Q. According to that paper, what is the amount of profit for the year 1882?

A. \$34,701.50.

Q. For 1883?

A. \$37,339.51.

Q. And for 1884?

A. \$37,809.50.

Q. Mr. Stegman, how do you explain the discrepancy between the amounts on the last paper, stated to be \$34,701.50 for profits of 1882, and the corresponding amount on the first paper, which is only \$12,154.97?

A. The difference is probably in making it up. I see that Mr. Bowen in making up his account of losses there makes a certain account which brings me into debt the first year. I went at it in a totally different method from him for the purpose of arriving at the result.

Q. Is not the statement of losses to which you refer as bringing you in debt the first year, a statement of losses outside of the expenses of your office?

A. No, sir.

Q. Well, I find this item in the statement of losses: "Champagne, 1881, \$8,333.82." How do you make that out as an expense of the office?

A. Well, it was to the extent that it was an expense I had to make during the campaign I ran for Sheriff, and it was paid back by me as I became possessed of funds during the next year, and when my friends kindly loaned me the money.

Q. Do you call that an expense of the office?

A. Well, it can't be an expense of the office really, but nevertheless it came out of the profits of the office.

Q. Does it come down then to this Mr. Stegman, that in making up this statement that you testified was prepared by your bookkeeper—?

A. Yes, sir.

Q. In the month of April, 1885, as I understand for the purpose of giving an account of your office of Sheriff against \$37,701.50 which purports to have come into your possession, he puts down as a disbursement, "Campaign, 1881, \$8,353.82?"

A. If you will kindly repeat that.

Q. (Repeated) Does it come then to this, Mr. Stegman, that in making up your statement that you testified was prepared by your bookkeeper, in the month of April, 1885, as I understand, for the purpose of giving an account

of your office of Sheriff, against the down as a disbursement, "Campaign,

A. Yes, sir.

Q. I also find as explaining the di \$34,701.50 for profits for 1882, and the pear on both these papers, interest that mean ?

A. Interest.

Q. Interest account \$936.67 for 188

A. The interest would probably be, due by me to parties, and also interest counting of notes.

Q. In this second paper produced ductions from the profits of 1882 the campaign, 1881, \$8,353.82; ditto, 1882, \$ dashes ?

A. Evidently that is a mistake.

Q. With no amount carried out; items, the dates of which are 1881, 18 tered as debits against the profits of 1

A. For the purpose of showing me money which I had received had been

Q. Yes; but how could you expend 1882 amounts that were not expended

A. They were expended in 1882, s the book there.

Q. Perhaps so ?

A. Evidently 1883 is a clerical error entry.

Q. I notice in the enumeration of wh on this second paper, an item call "

A. Yes, sir.

Q. Put down for 1882 at \$300, explain that ?

A. That, sir, was money payable to own personal expenses in going to A of endeavoring to prevent legislation

Q. What sort of legislation ?

A. Endeavoring to remove vagrant ing to break down my calendar fees

bills that had been introduced, of like nature and effect, and I considered them in the line of strikes ; the others I don't distinctly remember, except the fact that they were bills that had been introduced, and that it was necessary to fight them in Albany, as I presume Mr. Parsons is aware.

Q. Did you entertain the same view which has been heretofore expressed about the advantage of fee over the salaried system for that office ?

A. I have always considered, sir, from my examination and knowledge of the office, that I didn't see how the salaried system could prevail, and at the same time procure any benefit to the county in which salaried office might exist.

Q. Now, I have asked the other witnesses who have been called for examination, the present County Clerk and the Register of Deeds, their views about the change to a salaried from a fee system with reference to the public welfare. I wish to know your view upon that subject ?

A. My impression in regard to that is, or my belief is, that a salaried Sheriff, that being a peculiar class of office, it is one that, providing a man took it upon a salary he would undoubtedly render the county in which he exists as Sheriff a great deal more liable than he would when under the fee system, for whatever business he does. Under the fee system he holds himself responsible for all the business coming into the office. The ground of that, I take it, is in the reception of bonds indemnity bonds, or attachment or execution ; in such cases he wouldn't use the same amount of common horse sense in looking after these bonds, their responsibility and so on, as he would providing he himself knew that he being the responsible party, and liable would look after them ; and the consequence would be that providing he were a salaried officer, in my estimation, that the executives, whoever they might be, would simply receive any class of papers, saying, these don't amount to anything to us ; the county is responsible. This is of no particular value to me, and it is probable that the county would suffer very heavily by reason of suits ; while in the other case a Sheriff would fight very bitterly in regard to the bond. In the other event they would

say, "well, the county is rich enough to pay us, and there will be no particular risk" in this case.

Q. What effort for legislation in respect to the sheriff's office was made in 1882, and 1883; anything further than legislation looking to a change of emoluments of the office?

A. Yes, sir. It seems to me now that I had a bill introduced there of some character.

Q. Having any reference to emoluments?

A. Yes, sir; slight additions.

Q. Do you mean that it was a bill looking to an increase of the emoluments of the office?

A. Yes, sir.

Q. In what direction; by what process?

A. My impression at the present time is that it was to take some people who were imprisoned and being sent to the penitentiary, and send them to jail. There was some law in that direction in New York, by which the prisoners sent to the penitentiary or to Blackwell's Island and we desired on our part, instead of having them sent to the penitentiary to have them sent to the jail.

Q. In other words, you wished to increase the number of your boarders?

A. Precisely so, sir.

Q. Did you keep a bank account while you were Sheriff?

A. I did, sir.

Q. And a trust company account?

A. No, sir, only one bank account.

Q. In what bank was your account kept?

A. The Fulton Bank. That is, I kept separate accounts, but only in one bank.

Q. Under what names were these accounts kept?

A. Lewis R. Stegman personal, and Lewis R. Stegman as Sheriff, and, yes, there was another account called the foreclosure account. Three separate accounts.

Q. Did all your moneys go to those accounts?

A. Yes, sir.

Q. Did you ever draw money from bank in bills?

A. When I have occasion for it for my own personal use, yes, sir.

Q. What amounts have you at any time drawn in bills? I wish to know the range?

A. That would be impossible for me to say to a dead certainty, but I presume I have drawn as high as one, two or three thousand for some specific use, or for several uses.

Q. In bills?

A. Yes, sir.

Q. Have you any records which will show the uses to which were put money thus drawn in bills?

A. No, sir, unless it might perchance be in one of those books. If it was for some personal account of my own, I have no record whatever.

Q. I don't know whether the money was used for your personal account or not; but what I wish to ascertain as whether there is any record or written evidence of the use to which was put moneys thus drawn in bills?

A. No, sir, I think not.

Q. Can you be confident that you never drew in bills more than three thousand dollars at any one time?

A. Pretty nearly positive; yes, sir.

Q. Well, I have——?

A. In fact, I can state positively that I don't remember an occasion at any time when I drew as much as that.

Q. What I wish to know is, whether you can be absolutely sure so you can state against the possibility of that being a mistake, that three thousand dollars will cover the largest amount drawn by you, at any one time, in bills from bank?

A. I couldn't state it without possibility of making a mistake, but I don't think, Mr. Parsons, I ever drew up to that amount. I have given you that as the maximum amount.

Q. Can you state how much money was drawn from the bank by you, in bills, during your term as Sheriff?

A. Scarcely.

Q. Would it be a large amount?

A. No, sir.

Q. State some sum that would cover it?

A. Probably twelve to fifteen thousand dollars.

Q. What explanation have you to make of drawing so large an amount as that from bank in bills?

A. You mean the ten or fifteen thousand dollars?

Q. Yes?

A. My own personal uses; payments to different parties, and so on.

Q. Well, what is that "and so on"?

A. Well, it might be, perhaps, for the purpose of making it as a loan to some personal friend of mine who was in stress, and who I desired to help.

Q. Why would you not draw a check in his favor; why make a transaction of that kind in bills?

A. Sometimes I have drawn out a certain amount, maybe three or four or five hundred dollars, and hand him a hundred or two hundred and put the rest in my pocket. On the other hand, if it was a large amount, I would draw a check and keep a memorandum of it; but if it was a personal matter, I don't think I was ever very careful about my finances.

Q. As I understand, the \$12,000 or \$15,000 which you think will cover the amount drawn by you in bills during your three years as Sheriff embraces all the amounts drawn by you for personal expenses and to meet other such expenditures as you have now referred to?

A. I think it would about do so, yes, sir.

Q. What I wish to have clear (and make any explanation to make the thing clear), is whether you paid for your living expenses in that way?

A. No, I generally drew a check.

Q. For your living expenses?

A. Yes, sir; that is household expenses. Sometimes in cash, but more frequently by check.

Q. I understand you to have said, Mr. Stegman, that you may have drawn as large an amount at one time as \$3,000 in bills?

A. I said that probably that would be largest amount; but I haven't any distinct recollection of ever drawing that amount, but I put that as a limit.

Q. Have you no distinct recollection of some large sum that was drawn by you in that way?

A. No, sir ; I have not.

Q. Do you not associate in your mind the drawing of some large amounts in bills with some occurrence which called for it ?

A. None, except it might be some party was waiting in the office, and to assist in expediting the business I would go over and draw a check and bring back the money. In the foreclosure bureau that was sometimes the case, that our own people, or even I personally, would go to the bank and bring back the money and settle the matter right in the office.

Q. Notice what I ask you. I wish to know whether you do not now associate in your mind the drawing from bank of some large amount in bills, with some particular occurrence which called for it ?

A. No, sir.

Q. Is that absolutely so, without any possibility of your being mistaken ?

A. After this lapse of time I couldn't definitely say it was absolutely so ; but to the best of my recollection and belief I do not.

Q. Now, Mr. Stegman, I want to ask some questions about these items of entry upon this second paper, as follows : " Campaign, 1881, \$8,353.82." Are you aware that there is and has been a law which makes it a criminal offence to make a bargain with reference to the fees of an office for which a person is a candidate ?

A. Yes, sir.

Q. Was that law known to you when you ran for Sheriff ?

A. It was, yes, sir.

Q. When were you nominated for Sheriff ? How shortly prior to January 1, 1882 ?

A. The month of October, 1881.

Q. Have you the means of showing to whom went the various amounts embraced in this item \$8,353.82 ?

A. Only by the journal that is now before you. I think that refers to some of the parties perhaps in the course of the year. I think in the early part of that book ; you will find it on the very first page.

Q. Do you refer to these two items which appear upon page 2 of the book described by you as your journal; and before I put my question to you I ask you to identify the handwriting of those two items?

A. These first two?

Q. Yes?

A. Those are both in the handwriting of my bookkeeper.

Q. You mean your Sheriff's bookkeeper?

A. Yes, sir.

Q. I understand this to be a book kept for the purpose of showing your money transactions as Sheriff?

A. Yes, sir.

Q. The items as to which I desire to know whether they were referred to by you in your statement that they might explain this item, "Campaign, 1881, \$8,353.82." read thus: "Cash debtor to sundries, for amount of cash received from various parties from October, 1881, to 31st January, 1881, as per Cash Book, folios 2 to 18, \$9,469.65." That is one item. "Sundries debtor to cash for amounts of cash paid out to various parties from October, 1881, to January 31, 1881, as per Cash Book, folios 3 to 19 \$9,229.70?"

A. Yes, sir.

Mr. Stegman, is the cash book, folios 2 to 18 and 3 to 19 of which will show the explanation of that transaction, the cash book which you have testified to have disappeared?

A. I presume it is, sir.

Q. Is that the cash book which has disappeared?

A. That is the cash book which used to be kept, and which I have never seen since I left the Garfield building.

Q. Please to answer the question. Is it the cash book which you testified to have disappeared?

A. Yes, sir; I presume it is the same cash book. I know of but one cash book.

Q. What means is there of giving an explanation of those two items which would be furnished if this cash book had not disappeared?

A. Only my memory.

Q. Can you remember the persons from whom the moneys charged to cash were received ?

A. Probably some three or four or five, more especially among the larger amounts that I received ; yes, sir.

Q. Are they the same persons for payments to whom cash is credited in the next item ?

A. Yes, sir.

Q. Were they persons connected with any party organization ?

A. Nothing except the simple fact that some of them were very strong, warm, personal political and social friends of mine, both republicans and democratic.

Q. I am not asking you whether they were republicans or democrats. What I wish to know is, whether they had any connection with any party organization.

A. I presume they might have belonged to ward associations.

Q. You presume they might have belonged to ward associations ?

A. Some of them I don't know, but others I do know did belong to ward associations.

Q. Why did you say that you " presume that they might have belonged to ward associations " when you now say that you know that some of them did belong to ward associations ?

A. I say some ; I don't know some from whom I received money ; I don't know whether they belonged to any ward association or whether they did not ; others again I knew did.

Q. You spoke of a limited number of persons from whom you received large amounts of money. Can you not tell whether they belonged to any party associations or not ?

A. Yes, sir ; I know they did. They belonged to ward associations, and were men in private business.

Q. These two items given as the dates during which the receipts and the payments ran, October, 1881, to January 31, 1881, ; should not that be January 31, 1882 ?

A. No, sir ; January 31, 1882—yes, 1882. Yes, sir ; that is right, sir ; 1882.

Q. Name so many of those person member?

A. John H. Shultz, John Jeffe Andrew D. Baird, Alfred Hodges, and a combination of members of the give you the names of the others if y

Q. Are there not persons there t have now named from whom you : sums than you did give these gentler

A. No, sir.

Q. Were there any of the persons belonged to the convention or body ceived your nomination?

A. No, sir.

Q. It is about persons having any re body that I desire particularly to i many transactions between you and if so, mention their names?

A. None whatever.

Q. Was there of the gentlemen na ber of the body from which you recei

A. None; no, sir, not one of them.

Q. Are there not persons with w transactions referred to in these two it not yet made reference, and were the who--

A. I stated that there were others these were more of the principal ones.

Q. I wish to inquire particularly a any relation to the body from which nomination. Were there not such p would appear in this missing check l tion with this gross item?

A. No, sir; not one.

Q. In this book which you say give transactions as Sheriff and which you pears, at p. 62, an accoun headed, "F lyn, December, 1883," and on the de item: "Ledger, fol. 24, Albert Dagg you-remember that item?

A. I remember there were several items going to make that amount up, sir.

Q. Will you explain if all of the details going to make up that item appear at folio 24 of the ledger here referred to?

A. I presume they would, sir.

Q. Where is that ledger?

A. Oh, that I haven't had possession of since I left it in my office.

Q. Is that another missing book?

A. Yes, sir. I stated the cash book and the ledger, and quite a number of books were gone.

Q. When did the accounts showing the balance of \$5,413.81 in December, 1883, begin?

A. 1878 and 1879, when I was Under Sheriff and Mr. Daggett was Sheriff.

Q. Was Mr. Daggett your immediate predecessor as Sheriff?

A. No, sir; Thomas Reilly.

Q. When did Mr. Daggett's term of office as Sheriff expire?

A. 1879, 31st of December; three years preceding my own commencement.

Q. Has that account ever been closed?

A. Well, I believe he don't consider it closed, and I do; that is the standing of the matter.

Q. He is not under oath and you are. Now be kind enough to say whether the account is closed?

A. I think it is closed; yes, sir. I consider I paid him all I owed him, with interest.

Q. Do these books show the closing of that account?

A. That I couldn't tell you, sir.

Q. The same item appears in this same journal, page 94, with the same reference to the ledger, folio 54, and at the same amount, Albert Daggett, \$5,413.81. Does that mean that there was no change in that account during that year?

A. I should judge it to be so; yes, sir.

Q. And is this the last balance sheet of your transactions as Sheriff?

A. 1884; yes sir.

Q. December, 1884?

A. Yes, sir.

Q. Mr. Stegman, if there is any explanation of that item that you can make, and wish to make, we desire that you shall avail of the opportunity to do so.

A. I haven't the slightest objection, sir. At the time that I went in as Under Sheriff with Mr. Daggett, after having taken the office and accepted the position, and become somewhat used to it, he told me that among the other contingencies which hadn't at any time before that time been explained, that I would be compelled to pay to the executive clerk \$2,000 per year, and the messenger \$600 per year, making \$2,600 for salary, out of whatever fees I might receive or make. In the year 1876 I paid that. In the year 1877 I paid it, or a portion of it; and in the year—well, I think for probably six months; in the year 1878 I was unable to pay on account of the fact that my receipts were not sufficient; and the same in 1877. I was also compelled to borrow some money from him in addition to that. He charged those salaries up to me, and always considered that I was in his debt, although I was utterly unable to pay it.

Q. Do you mean that as far back as the term of office of Sheriff Daggett the business was conducted under some arrangement by which the Under Sheriff received independent fees, out of which he bore part of the expenses of the office?

A. Yes, sir.

Q. What class of fees came to the Under Sheriff?

A. Fees from executions, poundage, and fees that were handed to him by his deputy.

Q. Only poundage?

A. Well, that I couldn't verify.

Q. Never mind about the verification. Was it assumed to be poundage mainly from which the Under Sheriff was to get his pay.

A. Yes, sir.

Q. And out of what he could get in that way, was it the

arrangement that he was to pay the executive clerk and messenger?

A. Yes, sir.

Q. At what annual stipend?

A. One of them \$2,000 per year, and the other \$600.

Q. Then during Sheriff Daggett's term of office the one-half of the poundage must have amounted to more than \$3.13 in the course of a year, did it not?

A. Yes, sir.

Q. What was the arrangement under which you then received a share of the poundage? What was the arrangement for division?

A. That one-half should go to the Sheriff and the other had to be retained by myself, and out of that to pay my deputies for the work which I assigned them to.

Q. What was the arrangement during your term of office as Sheriff?

A. To receive one-half of the legal poundage on every execution satisfied, or partially realized.

Q. And what was to be done with the other half?

A. To be retained by the deputy.

Q. Where did the Under Sheriff come in during your term?

A. He came in precisely as I have done under Daggett; to receive his one-half of the legal poundage, and to retain the other half, and retain it for himself alone, without any division as far as regards any officer of any kind or character. It was his individually.

Q. I asked you in reference to what happened during your own term of office?

A. Yes, sir; I am stating it.

Q. I understood you to state yesterday that you would have received under your arrangement one-half of the total poundage which came to the office?

Q. Yes, sir; that is precisely and distinctly it.

Q. Now, out of what part of the poundage that came into the office was the Under Sheriff to be paid, by the arrangement in force while you were Sheriff?

A. The executions which he himself took for the pur-

pose of executing against parties under due process of law.

Q. Do you mean that in respect to those transactions he acted as deputy ?

A. He acted as deputy, or employed other deputies to act for him.

Q. Where did the deputies get their pay, or where was it assumed that they would get their pay ?

A. They get their pay from the proportion which the Sheriff was entitled to.

Q. Who divided out the patronage of your office, so far as that consisted in the issue of executions ?

A. The under Sheriff.

Q. What was the system of division ?

A. If he followed mine, which I presume he did, I used to take the executions every evening immediately after four o'clock and go carefully over all of them, unless there was some special case where an attorney would call my particular attention to it by reason of hurry, and then after having looked at that, he would select such as he desired to keep for himself, which he assumed perhaps would be worth more to himself and the other deputies, and give so much out of a batch of 14 or 20, or whatever happened to be on hand, and these would be deposited in the boxes of the different deputies. In some case a deputy would get one ; sometimes four, or sometimes five ; in other cases the Under Sheriff might snap up all of them himself.

Q. Were there any cases within your knowledge where the deputies ever complained that they did not get their fair share ?

A. Yes, sir.

Q. You regulated such complaints ?

A. I did ; I invariably went to the Under Sheriff and told him he must do better, and that he must try to give a living show to the deputies so that they might live.

Q. My attention is called to this entry at page 16 of your journal, in the balance sheet of December, 1883 : Ledger folio 261, William Engeman, \$2,000 ?

A. Yes, sir.

Q. Do you remember that item ?

A. I do, distinctly, well.

Q. Who is William Engeman ?

A. The proprietor of the Brighton Beach Hotel, and at one time partial proprietor of the racing track, and also the Ocean House at Coney Island.

Q. The testimony has mentioned the name of a George H. Engeman ; what is the relation between these two persons of the same name ?

A. Brothers.

Q. And are they associated in the racing at Coney Island and have they been ?

A. They have been associated together ever since I have known them, covering a period of possibly twenty years, as partners in business.

Q. How long have you known that gambling was going on on the race course of the Brighton Beach Association ?

A. I never knew it of my own knowledge.

Q. I don't ask that question with reference to your own knowledge ; I want to ascertain how long you have heard of that as a public fact ?

A. Probably some seven or eight years ; that is, that they were selling pools.

Q. Don't you regard that as gambling ?

A. Well, I don't know whether I have ever paid particular and special attention to the fact of pool-selling or book-making or any other class of gambling—that it was going on ; it didn't interest me.

Q. The question is whether you have not regarded pool-selling as gambling ?

A. I may answer that in this way, that I don't believe that any race between horses, so far as regards human nature, could very well go along without betting on the part of parties ; I think the impulse of human nature is always to bet.

Q. That isn't what I want to know now, but whether it has been your view that pool-selling was gambling ?

A. According to the laws, yes, sir.

Q. That is exactly what I wish to know—according to the law ?

A. Yes, sir.

Q. (Handing witness a paper) Do you recognize that publication?

A. No, sir; this is, I think, the first one I ever have seen of this character.

Q. Are there any names there which you recognize?

A. It is a little too fine print. Yes, sir; quite a large number.

Q. Mention the names which you recognize?

A. The Hon. A. M. Bliss, Hon. Felix Campbell, Hon. T. C. Campbell, William Marshall, James N. Smith, H. H. Wheeler, William Cole, Thomas A. Pearsall, H. McLean—I know two H. McLean's, by the way; I don't know whether this refers to the elder or the junior.

Q. Go on and enumerate the names appearing upon that list of persons with whom you are acquainted?

Ans. C. Ferguson, Benjamin Lewis, Charles M. Kentland, John H. Schneider, Gen. James Jordan, John J. O'Brien, H. B. Scharman. On the other side are the officers.

Q. I wish you to specify the names of all persons recognized by you and appearing upon that publication?

A. George H. Engeman, James McKenna, W. H. Stillwell, A. H. Battersby, William A. Engeman, C. C. Wheeler, Dominick H. Roche.

Q. Is this paper from which you have read headed, "Brighton Beach Racing Association, 1886," then a picture, and under that, "Price ten cents?"

A. Yes, sir; I see that.

Q. Are the names from which you have read classified under two heads and in two columns?

A. Yes, sir.

Q. Are those first mentioned by you classified under the designation of governors?

A. Yes, sir.

Q. And those in the other column under the designation of officers?

A. Yes, sir.

Q. Who is the person here mentioned as vice-president and manager?

A. George H. Engeman.

Q. Do you know him?

A. I do, very well.

Q. How long have you been acquainted with him ?

A. From the time that he first started in at Coney Island, I think.

Q. What did he start in there to do ?

A. Keeping the Ocean House, bathing, &c.

Q. When did he become identified with racing and gambling, if he ever was identified with either or both ?

A. I think the racing track—I don't know whether it was 1879 or 1880 that it was started ; I think it was 1880; I couldn't specify that, for I don't remember; for it may have been before that time and it may have been a little later.

Q. Is the person mentioned here under the name of William A. Engeman the brother of the person to whom you have previously referred this morning ?

A. No, sir ; his son, I believe.

Q. Are you acquainted with him ?

A. I am not.

Q. When did you first learn that he was a son of George H. Engeman ?

A. I don't know that I know it positively now ; I simply have a recollection at the time of William Engeman's death that a son was present at the funeral, and my impression is that his name was William A.

Q. Did you ever have a warrant for the arrest of either or both the Engemans ?

A. No, sir.

Q. Did you ever do anything towards arresting them or do anything towards preventing gambling under their direction or upon the race course of which they were officers ?

A. No, sir.

Q. Were you ever aware of a statute which imposed upon you as Sheriff the duty of informing against and prosecuting for offenses under the gambling statute, where you had reason to believe the offense was committed ?

A. I remember a statute, yes, sir, which referred to the Sheriff, the District Attorney, and I don't know but other officers, for the purpose of taking notice of those things.

Q. Did you ever advise with the District Attorney as to your duty under that statute?

A. I think we had conversations with reference to that, yes, sir.

Q. With which District Attorneys, and when?

A. With Mr. Backus. I think more especially the first assistant District Attorney.

Q. When?

A. Probably about the year 1883.

Q. You say probably about the year 1883; what do you mean by probably?

A. I mean then for the first time in the year 1883.

Q. Did you ever advise with District Attorney Ridgway or other of his subordinates upon that subject?

A. I think we had some conversation in regard to that, yes, sir.

Q. When?

A. In 1884.

Q. How often?

A. That would be very hard to say when I talked of it at any time with him; we talked of it as we would meet in reference to other matters.

Q. Was the result of these talks that something was done by you or that nothing was done by you?

A. Both something was done by me and also not done by me, because as Sheriff I didn't believe it was required of me under that law to become a spy and to be snooping around to find out other people's business, unless some people should make complaint to me, as I think was never done.

Q. Where did you get that advice from?

A. I think that I got that from lawyers that I talked with.

Q. What advice upon that subject did you receive from the District Attorney's office?

A. I don't know that we ever specially went over that particular thing.

Q. I wish you to state fully what passed between you and the District Attorney's office both prior to 1884 and succeeding January 1st of that year with reference to your

action under the statute making it your duty to inform against and prosecute persons as to whom you had reason to believe that they were offenders against the gambling statute?

A. I remember speaking to Mr. Backus, First Assistant District Attorney, during the year 1883, on several occasions.

Q. What passed between you?

A. In speaking of the fact that gambling existed at Coney Island, and that complaints were being made in reference to it by the public press, but no specific complaints had come to either his office nor my own, as far as I remember our conversation. I stated to him, and I remember that he said he thought it would be an advisable thing to do, that if any one would come and make complaint to me as Sheriff, verifying it by oath, so that I might proceed understandingly, I said to him, "I will go down there as Sheriff and break up that whole thing;" but no one ever made any complaint to me; no notice beyond the newspapers that I ever saw, and no personal effort was made by any one to see me direct, though I made that remark openly, publicly and frequently, that if any one would come to me and make complaint to me as Sheriff, I would follow it up. Mr. Backus substantially agreed with me in every possible respect, and said he would only be too glad to assist me in every possible way.

Q. But what did Mr. Backus advise as to whether unless such complaint came to you you were to do nothing?

A. I don't think Mr. Backus gave me any advice; if so it has escaped my memory just now.

Q. Is it not a fact that on receiving such a complaint as you required as a condition of action by you that you did nothing?

A. My understanding of the law——

Q. I am not now asking you about your understanding of the law, but what was done or what was not done by you?

A. Nothing was done by me until bench warrants were placed in my hands.

Q. Why did you confer upon the subject with the District Attorney's office ?

A. On account of the fact that from time to time the public papers were speaking of gambling being in existence at Coney Island.

Q. But why did you go to the District Attorney's office rather than to the County Treasurer's office or some other office ?

A. The District Attorney at that time was my counsel; he was my personal counsel as Sheriff—General Catlin.

Q. Do you mean that *ex officio* he was your counsel, or that you selected as your counsel the same gentleman who was the District Attorney ?

A. Yes, sir; he was an old personal friend of mine.

Q. But were you referred to him by Mr. Backus ?

A. No, Mr. Backus had made it a sort of specialty to attend to that line of cases and everything connected with the particular business of the office. General Catlin was a sort of advisory, but Mr. Backus did that particular part of the work of the office.

Q. Did you ever confer with General Catlin personally upon this subject ?

A. Yes, sir.

Q. What passed between you and General Catlin ?

A. Our conversations related to the fact that there were rumors and statements made in regard to the gambling at Coney Island, and he said : " Have you received any complaints ? " I said : " No, I haven't. " Said he : " As far as regards your position, it seems to me as though you can't do anything individually unless you receive complaints. "

Q. That is what General Catlin said ?

A. I think that is very nearly about what he said. " I think you will necessarily require that bench warrants shall be issued to you, or that something shall be done in a formal manner. "

Q. Now pass to the periods succeeding January 1st 1884 ; then General Catlin had ceased to be District Attorney ?

A. Yes, sir.

Q. And Mr. James W. Ridgway was his successor ?

A. Yes, sir.

Q. In what capacity did you confer with him upon the subject of gambling?

A. As District Attorney, and also as a lawyer whom I had known a great many years.

Q. What passed between you and Mr. Ridgway upon the subject of what should be done by you in the discharge of your duty under the section of the Penal Code to which I have called your attention?

A. I don't think Mr. Ridgway ever stated that I had any special duty to perform under the statute.

Q. I don't ask you what he didn't say, but I ask you what he did say?

A. He spoke of some facts that were at that time prevalent by reason of the newspaper articles, and said that, providing serious and steady complaints were made, he would prosecute, and would endeavor to have the law carried out to the fullest extent; that he intended to break up gambling there if he could possibly do it.

Q. Have you not said a little while ago that if you had been set in motion you would have stopped the gambling at these race courses; have you not said that a little while ago?

A. Yes, sir, and I mean it to-day.

Q. Did you tell District Attorney Ridgway this?

A. In all probability I did, because those were my feelings at the time.

Q. What is your best recollection as to whether you gave the District Attorney to understand that if you were set in motion you would stop gambling on race courses at Coney Island?

A. Only on complaints to me individually.

Q. But did you tell him that if complaints were made to you individually or anything done to set you in motion you would suppress the crime?

A. It is quite likely that I did.

Q. What is your best recollection upon that subject?

A. Only from the general feeling that I have had with regard to the matter; that is all that I remember, that I probably expressed myself as I am doing now.

Q. Do you mean that it is your best did so?

A. Yes, sir; that we had conversati and that providing any one came to m plaint I would, under that state of thi execute my business.

Q. Execute your business?

A. Well, I would stop gambling.

Q. What did District Attorney I upon the subject of whether you were ond complaint was made before procees bling?

A. I don't think, sir, that we referr

Q. Did not something pass betwee Attorney Ridgway, the result of whic nothing?

A. No, sir.

Q. Why did you not do something

A. There were no complaints made. my own basis of action without refer Attorney. I said that as Sheriff, with statute. I didn't believe I was called unless complaints were made.

Q. Where did you get that belie given to you?

A. From having spoken to attorne and from my own reading of it.

Q. I still wish to have you state wh ney Ridgway instructed you or sa about what was or was not your duty

A. I cannot recollect that we spoke my duties were under that statute.

Q. I understand you to have said the fact that no complaints had been r

A. Precisely so; but we didn't di right or wrong in my belief. We did merits of that, except that I made t undoubtedly I would to anybody, t were made to me, I will go down and didn't ask the District Attorney to a

of that kind; simply we conversed with reference to gambling at Coney Island.

Q. You have just anticipated my question; were you not talking about this prevalent gambling at Coney Island?

A. This newspaper talk about it.

Q. In that conversation did you give District Attorney Ridgway to understand that if you were set in motion you would suppress it?

A. The chances are that with my feelings at that time I did.

Q. Doesn't that recall what part Mr. Ridgway took in that conversation, or any such conversation?

A. No; from recollection now, the conversation of 1884 occurred about the time of the placing of the bench warrants in my hands.

Q. Is there either of the persons enumerated under the head of officers of this Brighton Beach Racing Association, in this paper of 1886, against whom you have had bench warrants or any process of a criminal character?

A. I don't recollect a single name from the reading of this list that I had any process against.

Q. Who is A. H. Battersby?

A. He was formerly a school teacher.

Q. Has he got beyond that?

A. Yes, sir.

Q. What has he got to?

A. I see by that card that he is secretary or treasury of the association.

Q. When did you first associate his name with gambling on Coney Island?

A. I don't know that I ever distinctly associated him with gambling at Coney Island.

Q. When indistinctly?

A. Never indistinctly; I think it was only within the last year or two that I recall his name as being connected with the Coney Island track at all—I think within the past two years perhaps.

Q. Do I understand that prior to a year or two past you

did not know that he was associated with the racing and gambling at Coney Island?

A. I am not positive in regard to that, but it seems to me I did see him when I went down to the track to make some arrests; but whether he was connected with the track or not, I didn't know.

Q. When was that?

A. In the month of September, 1883.

Q. That was nearly four years ago, wasn't it?

A. That would be four years next September; but whether he was connected with the track at that time I didn't know.

Q. You knew he wasn't a teacher then, didn't you?

A. There were a lot of residents of Gravesend whose business I didn't know, and I didn't know his business at that time.

Q. What was Mr. Battersby doing on the track in September, 1883?

A. We took a drink together at the bar, to the best of my recollection.

Q. Did he do nothing but drink while you were down there? What I wish to know is, what did you go down there to suppress?

A. I didn't see him do anything at the time, and I wasn't there to suppress anything. I went there to arrest Jane Madigan or James Quigley; it was on either of two occasions that I went there for that purpose, that I found Mr. Battersby in the bar-room.

Q. Was that in September, 1883?

A. I think in September.

Q. Was it on the occasion that you went down there with bench warrants?

A. Yes, sir; for Jane Madigan or James Quigley. We took down the posse, and we had a number of places to go outside of the race course.

Q. I want to get inside the race course?

A. We went inside, also.

Q. Did you then meet Mr. Battersby?

A. No, sir; there was no one else in the building that I remember.

Q. What took you down there on the occasion when you took a drink with Mr. Battersby ?

A. I went to arrest either James Quigley or Mrs. Madigan, one or both, whichever I could get.

Q. You had no process at that time which concerned Mr. Battersby ?

A. No, sir.

Q. How shortly was it afterward that you went down with the search warrant that took you to the race course ?

A. That was preceding.

Q. How shortly preceding ?

A. About five days.

Q. What was Mr. Battersby doing then ?

A. I did not see him as I remember.

Q. Did not something occur on one or the other of these occasions which informed you that Mr. Battersby was identified with the processes going on at the race track ?

A. No, sir ; not in that year.

Q. When did such knowledge come to you ?

A. Not until 1885 or 1886. It was then I saw his name in the papers.

Q. When did you last see Mr. Battersby or Mr. Engeman ?

A. I saw Mr. Battersby possibly two months ago ; I met him on Montague street.

Q. Was that before or after you knew of the appointment of this committee.

A. It was preceding the appointment of this Committee.

Q. When last did you see Mr. Engeman ?

A. I have not seen Mr. Engeman for several months ; possibly not since last summer.

Q. Explain the item in your balance sheet on December, 1883, "ledger folio 261, William Engeman, \$2,000?"

A. That was borrowed by me from Mr. Engeman on my note.

Q. When ?

A. November, 1883.

Q. Have you ever paid it ?

A. No, sir.

Q. Why did you borrow from a man who was publicly associated with crime and gambling?

A. Because Mr. Engeman and I were old and were personal friends.

Q. Since when?

A. Since he first started the Ocean House at Brighton Beach.

Q. From what other persons associated with crime did you ever borrow money?

A. Paul Bauer.

Q. When?

A. In 1882.

Q. How much?

A. \$1,500; all of which has been repaid except \$200.

Q. Is he also an old friend?

A. Yes, sir.

Q. How long have you been acquainted with his public reputation?

A. I presume ever since he has been on Coney Island.

Q. And how many years is that?

A. About 1877 or 1878, it seems to me.

Q. Where did you go to make the application for a loan of money?

A. At his place in Vesey street, New York.

Q. Where did you go to Engeman to borrow money from him?

A. At Mr. Engeman's house on Fifth Avenue.

Q. Brooklyn?

A. Yes, sir.

Q. Was that a bill transaction or check?

A. That was a check by him and a note by me. I came the same with Bauer; we passed notes, he using mine and I using his.

Q. You have said that you have paid Mr. Bauer in large part?

A. Yes, sir.

Q. When?

A. At different times between my first borrowing of money, and finally finished up by my paying him back in installments in 1884 or 1885, the early part of 1885.

Q. When did you make your first payment in return for that loan?

A. The first notes that we passed between each other, both mutually met. I think we did that on three or four occasions.

Q. Down to when?

A. Down to probably 1884. In 1884 I was very much cramped; consequently could not pay up, and from time to time he gave me extensions when I paid up the bulk, probably \$300 or \$400 at a time; there is now about \$200 left.

Q. When was this transaction which you speak of, payments in notes or renewal of notes?

A. That was in the case of Mr. Bauer simply.

Q. What I wish to ascertain is just when you made any return to Mr. Bauer on this loan which was in the nature of the payment of the money?

A. I presume it was in 1884.

Q. When in 1884?

A. The latter part of 1883 or early part of 1884.

Q. How much did you owe Mr. Bauer at the end of 1884?

A. \$200.

Q. Is that all?

A. Yes, sir; that is all I owe him now.

Q. Did he assist in bringing about your election or nomination for Sheriff?

A. A man who was a strong personal friend of mine could materially assist me in securing votes for me during my run for Sheriff?

Q. Did Mr. Engeman assist you?

A. Yes, sir; I rather surmise that he did.

Q. Did both furnish money?

A. No, sir.

Q. Did either?

A. No, sir.

Q. Have you now stated the names of all the persons who have been publicly identified with crime in Kings County to whom you have been indebted while you were Sheriff?

A. Yes, sir. It was a business transaction entirely.

Q. You call those business transactions?

A. Yes, sir, as much as if I borrowed it from you, Mr. Parsons.

Q. Mr. Stegman, did you not have reason to believe that Bauer and Engeman were offenders against the gambling statute?

A. No, sir.

Q. How do you explain that?

A. No complaint has ever been made as far as I was aware, more especially to me as the Sheriff.

Q. How many complaints of crime were made to you while you were Sheriff?

A. I don't know that there were any.

Q. Had you reason to believe that there was any crime perpetrated in this county while you were Sheriff?

A. No, sir; except what I read or know of in regard to police business. Individually as Sheriff I had none brought to my attention; no special crime.

Q. The point is whether you did not have reason to believe that crime was being perpetrated, even if complaints were not made to you as Sheriff?

A. I didn't go looking for it, Mr. Parsons.

Q. So I see, but the point is whether you did not have reason to believe that crimes against the gambling statute were being perpetrated in your county?

A. Only from hearsay and from what the newspapers said about it; individually I never saw a pool sold and never was on the race track but once in my life.

Q. Did you believe this newspaper talk regarding pool selling and gambling on the track?

A. The papers were not in harmony among themselves about it.

Q. Did the views of any of the papers correspond with your own views?

A. None of them agreed with mine. What I wanted was some one to come and make a straight complaint on oath, so that I would have something tangible to act upon. Every time I had conversation with anyone on this subject I spoke of this, publicly.

Q. How did you express that ?

A. I spoke of the matter publicly wherever it was mentioned to me.

Q. To whom did you speak of it ?

A. I spoke of it to a number of persons, whenever Coney Island was mentioned.

Q. Did you ever hear of Mr. Comstock ?

A. Yes, sir.

Q. When first did you associate his name with efforts to suppress the crime of gambling ?

A. As far back as 1876 or 1877.

Q. Did you make any such announcement to him, as you speak of publicly proclaiming, while you were Sheriff ?

A. I did.

Q. Fix the date.

A. 1882 ; I can't specify the exact date ; we talked over the subject generally and about Coney Island.

Q. You pass my inquiry ; I want to have you to mention the names of any and all persons, Comstock or any one else, of whom you can now remember, that you expressed to them the wish that somebody would make a complaint against some person as an offender under the gambling statutes ?

A. I know that in almost every conversation I had with any one on the subject I expressed that wish. I mentioned it to Mr. Comstock, who agreed with me, and said that if any action could be taken we would proceed together and endeavor to break up these transactions.

Q. When you went down in September, 1883, what was the condition of your mind as to your belief, whether or not gambling went on on the race courses ?

A. My intention was to seize all those against whom I had bench warrants and to seize all paraphernalia ; also, to arrest any others I might see gambling.

Q. Do you know that section 349 of the Penal Code makes it your duty to act not only upon what you know, but also upon information and belief ? And what I wish to know is whether, when you went down to Coney Island in 1883, you did not have reason to believe that gambling was going on ?

A. On the strength of the bench warrants and the conversation I had with Mr. Comstock—yes.

Q. What occurred from that time down to the time you ceased to be Sheriff to make you think that gambling which then went on, ever ceased to go on?

A. No further complaints were made.

Q. Is that all?

A. Yes.

Q. Describe Paul Bauer's place at the time when you went there to make the arrests?

A. It was a rainy day and Paul Bauer's place was not as is usual in the Summer time, full of people. He had a huge hotel, a restaurant and a—

Q. Get down to the gambling or pool rooms at once please?

A. I never saw any gambling there.

Q. Did you see any paraphernalia there?

A. No, sir; when we went into the room where it was alleged to have been there was nothing there.

Q. What were the fittings up in the room in which it was supposed poolselling took place?

A. It was bare.

Q. Did the room suggest that paraphernalia had been there and removed?

A. The room looked bare.

Q. Did this bareness suggest that the paraphernalia which had been there had been removed from the place?

A. As I had not seen the paraphernalia I did not know what position it would occupy or what it would look like.

Q. Was there anything about the room which indicated that it had been stripped of something, or that something had been removed?

A. I thought it looked pretty bare.

Q. I want to know what you saw?

A. It looked very bare to me.

Q. Did it look very bare, as if something had been taken away which had been previously there?

A. I could not say, because I did not see it prior to that time.

Q. What sort of a room was it. State its size and the general appearance of the room, what it was?

A. My recollection now is that on the occasion when we entered it was through the front door, and we passed by the office on the right-hand side, and in front of this office we found this room where this gambling had been going on and where the paraphernalia had been; I think that is a little back from the street. We were considerably hurried that day, as we wanted to drop into another place.

Q. Are you accurate in your recollection that you saw Mr. Comstock as early as 1882? Did you ever see him prior to these occurrences in 1883?

A. The reason I refer to that date is that when I was Under Sheriff Mr. Comstock was made Special Deputy Sheriff.

Q. In what year?

A. I think in 1876 or 1877.

Q. I am asking about gambling?

A. I think it was in connection with obscene literature and the Society for the Suppression of Vice.

Q. I understand you to have stated that you had a conversation with Mr. Comstock about gambling as early as 1882. I wish you to state whether on that subject you ever saw him prior to the occurrences in September, 1883?

A. I saw him in 1882, when he was made a Deputy Sheriff by me for Kings County, and we had a pleasant conversation together in the office.

Q. Is the occurrence which you speak of as a raid the occasion when you went with these search warrants?

A. Yes, with Mr. Comstock.

Q. How shortly prior to that time did you see John Y. McKane?

A. Being a Supervisor—

Q. Never mind about his being a Supervisor; I am asking about John Y. McKane.

A. I might see him once a week; sometimes once in two weeks, if I happened to meet him in the corridor, passing in and out from his official place of meeting, or I coming out of my own office.

Q. Did you ever have conferences with him about gambling?

A. In the year 1883, either at the time of this raid succeeding, we had, yes, sir; not preceding it.

Q. Did anything pass between you, directly or indirectly, immediately prior to your taking those search warrants to Coney Island, upon the subject of proceeding to investigate gambling there?

A. I have no recollection of any such conversation; sir.

Q. Did he not know that you were coming to Coney and with these search warrants?

A. Not from any knowledge of mine.

Q. When was the occasion as to which you have testified that the people against whom the charge of gambling was made had disappeared before you got there?

A. That was on the day of the raid, in front of his office afterward in his office, and I think the next succeeding day in my own office.

Q. Am I right that on that occasion your search warrants were not directed to the race course, only to out-of-the-way places?

A. They covered the Brighton Beach race course, because they referred to men who were supposed to be pool-sellers there, as I remember it now.

Q. Did the warrants which you then went to execute include Paul Bauer and also persons assumed to be on the race course?

A. Both, sir, to the best of my recollection.

Q. Those persons assumed to be on the race course, as I understand, disappeared?

A. Yes, sir, except those that we arrested that day.

Q. Did you arrest anybody on the race course?

A. We arrested, I think, one man just outside of the race course, two by the side of McKane, and two at the depot as we were about to go down.

Q. That left how many that you did not find on the race course?

A. Out of twenty-three, that left some eighteen.

Q. Did you ever investigate to ascertain how those persons

sons obtained information or any notice, the result of which was that they had flown when you got there?

A. Yes, I know it bothered me considerably in my own mind as to where they could have got the information from.

Q. What did you do in the way of investigating that fact?

A. I had conversations with some of my deputies in regard to it, asking the facts so as to find out where the leak was.

Q. I do not ask for conversations; I merely desire now to know what was done?

A. I was trying to find out the leak.

Q. You had conversations with your deputies?

A. Yes, sir.

Q. Did you make any investigation in the District Attorney's office?

A. How could I?

Q. I want to find out whether you did?

A. No, sir; I did not.

Q. As I understand, the persons who knew in advance about those bench warrants were persons attached to the Sheriff, persons belonging to the District Attorney's office, and Mr. Comstock, and some of his subordinates?

A. And Judge Moore.

Q. Were there any other persons whom you knew, or of whom you were informed, through whom the leak could come?

A. The Grand Jury who indicted them.

Q. Who was the foreman of the Grand Jury?

A. I have not the slightest recollection.

Q. What was the date of the indictment or indictments; do you remember that?

A. I think just preceding the raid itself; perhaps three or four days.

Q. Is there any explanation of any of the topics about which you have been examined that you desire to make, or do you wish to add anything to the testimony you have given upon any subjects about which you have been interrogated?

A. No, sir; I can't particularly state that there been anything that I am at present aware of, under interrogation.

Q. Then the only concluding inquiry which I wish address to you is, that you will exhaust every possible effort for the discovery of your missing cash book, your missing ledger and the missing statements upon which were made the original entries of moneys received at your office, and particularly that you will search for evidence of the details of those two entries in your journal of nine thousand and odd, which were called to your particular attention, and that you will be prepared at the succeeding session to communicate the information?

A. Yes, sir.

BY CHAIRMAN BACON: Q. Do I understand from your testimony that you wish us to infer that your bookkeeper who made out these accounts, about which you have testified this morning made false entries, and that you were deprived of sums which rightfully belonged to you?

A. Yes, sir; it looks very much like that to me.

Q. And you believe it?

A. Yes, sir; I believe it.

Q. Have you any idea of what the amount of the difference is?

A. I simply know this, that there are discrepancies that run from \$15,000 up to \$38,000.

Q. And what should be added to the net receipts of your office?

A. Well, a part of that; I should say \$15,000 perhaps \$12,000 to \$15,000.

BY MR. PARSONS: Q. Does that mean the entire period or is that year by year?

A. I mean the difference that I discovered between what is credited to me by the bookkeeper, and the amount that there should be, would have probably amounted to \$12,000 to \$15,000 to be added, to make the amounts very much more in gross.

BY MR. COLE: Q. Each year?

A. Yes sir; for the three years.

Q. And how is it that you speak of \$38,000 discrepancy?

A. I haven't any record of it, but I am speaking of figures to my own recollection, and giving the items together, without regard to his statements to me, and taking it also from his private books; I make this \$68,000; by his own figures to me, in the three years, in the statement furnished to me in the month of April, 1885, it only amounts to \$30,000.

BY CHAIRMAN BACON: Q. Then that difference would all be added to your net income, would it not?

A. No, sir; only the difference between the actual expenses and the real amount; the same totals are there, and we don't disagree regarding the sum totals, but simply with regard to the profit.

Q. You paid some eight thousand dollars for campaign expenses?

A. Yes, sir; probably near nine.

Q. Was that paid in one lump sum?

A. Oh, no; I obtained that from individual friends as the campaign progressed, by borrowing from them and by volunteer subscriptions on their part; and I paid it afterwards in the course of the next succeeding year to those who desired to have me repay it, where it was in large sums.

Q. Did you repay in checks or in bills?

A. By note and by checks.

Q. Not in bills?

A. I think not; perhaps I may have paid back some in bills.

Q. About how many times did you draw bills from the bank which would make up perhaps the sum of \$15,000, during the three years that you were Sheriff?

A. Do you mean that would be charged to me personally?

Q. Yes?

A. I couldn't estimate that because the sums would vary.

Q. It would be made up in small amounts?

A. In small amounts, unless it would happen to be some

business transactions that I would receive of it for.

Q. In what sums were these sums paid ; in sums of \$25 or \$50 or \$100's

A. Yes, sir ; just as I might happen, sometimes fifty or a hundred dollars, \$1,000, if I was going to make some

BY MR. GREENE: Q. You were before you were elected Sheriff ?

A. Yes, sir.

Q. And you are still ?

A. I am not in the profession now, the Sheriff's office I dropped my practice.

Q. How long were you a practicing lawyer before you were Sheriff ?

A. Since 1861.

Q. About twenty years before you were a practicing lawyer ?

A. Yes, sir ; that is, I practiced of different periods ; of course during the

Q. You received payments from the State and for the transportation of prisoners that in a draft in the autumn after the visitors had met ?

A. They met monthly and my bill was paid monthly.

Q. That is as to the board of prison

A. Yes, sir.

Q. But as to the pay for transportation had a contract for that ?

A. Yes, but that went around in periods of different months. A given amount went into each month's bill.

Q. You didn't wait until the end of

A. No, sir, it went in proportionate

Q. You appointed Mr. Comstock Deputy Sheriff ; when was that ?

A. I think in the early part of 1882.

Q. How long did he remain Deputy Sheriff of County ?

A. Up to about the year 1884.

Q. About during your term of office?

A. Yes, sir.

Q. And as such Deputy Sheriff, if crimes were committed in his presence, he had the same power as you had?

A. Yes, sir.

Q. The power to arrest?

A. Yes, sir.

Q. If crimes were actually committed in his presence?

A. Yes, every special deputy has that authority.

Q. Have you any objection to stating how he came out finally when your business was closed up as Sheriff?

A. A complete wreck.

Q. If you don't want to state it I don't want to inquire about your private business?

A. I have no objection to stating it.

Q. Was that in consequence of the loss that ensued to your office by suits brought against you, as well as for what you think you were unfairly dealt with about by your deputies?

A. In being unfairly dealt with and for my own adverse business enterprises.

Q. You had suits brought against you?

A. Yes, sir.

Q. And were there recoveries had?

A. Not very heavy; some. I have a couple of suits in which I am bonded, one for \$4500 in the Court of Appeals, and that has just been decided against me; and another for something like \$1000 in which I am suing the bondsmen. I think I am indemnified for all except one small case.

Q. You don't think you lost all this money from suits brought against you where you hadn't sufficient bonds?

A. Oh, no.

Q. But you lost it by speculations outside?

A. I lost it in business adventures outside; I do not call it speculations; they were legitimate business adventures.

BY MR. SHEPARD: Q. What was the amount you paid as Sheriff, under suit, in addition to the \$4500 now in the Court of Appeals?

A. I haven't paid those.

Q. But outside of those, what amounts have you paid?

A. I couldn't tell you exactly without referring, perhaps, to General Catlin's book.

Q. It is quite a small amount?

A. A small amount.

Q. Not considerable?

A. No, sir; my loss was very small as regards suits.

BY MR. GREENE: Q. Isn't it a fact that it is possible that people down at Gravesend might have learned of these indictments from other sources than from the Sheriff's office, or the Judge, or the District Attorney's office; by means of newspapers that are published?

A. Yes, sir, it is among the possibilities.

Q. They are pretty active, generally, the representatives of the Press?

A. Yes, sir.

Q. And if there is a report that indictments have been found it is pretty hard to keep it away from them?

A. Yes, sir; it is very hard for a Sheriff of this county, or any other county, to keep all of his clerks and deputies and the people employed about clean-mouthed with reference to proceedings.

Q. Especially if they are not felonies, it is usual that they appear the next morning in the newspaper, or the same evening?

A. If they are presented at all, at the desk, yes, sir. The chances are that they will leak out.

Q. Are you acquainted with Mr. Farley, the present Sheriff?

A. Very well, indeed.

Q. Have you been familiar with the office of Sheriff since he has been there; have you been there since he has been the incumbent?

A. Yes, quite frequently.

Q. Do you know anything about the way business is managed there?

A. First class. I never saw anything more systematic, and I wish I had adopted the same system?

Q. You don't think he will come out broke ?

A. I think he will come out with all the law allows him. I never saw a more competent man in my life for the conduct of that business, and I wish I had done the same way.

Q. Although he is not a lawyer and not a very learned man, you think that still the conduct of the office is better than yours was ?

A. First class officers all around him, like Grant and Sherman, and other great generals that I know of.

BY CHAIRMAN BACON : Q. During the time you knew Paul Bauer what was his reputation ?

A. During the time I have known him I never have heard any serious accusation against his character, but I have heard people speak of him being a man who was sometimes rather irascible and quick as regards offense ; that he has had his place filled down there with visitors, and many of them speak of him in an unkindly way on that account.

Q. And has he been connected with gambling for some years ?

A. I never knew of any connection with gambling until about the time of this raid ; I never knew that a pool room was there until, I think, my attention was called to it by Mr. Comstock.

Q. And has he had gambling in his establishment since, to your knowledge ?

A. Not to my knowledge ; I haven't been to his establishment for a couple or three years.

Isaac S. Catlin, being duly sworn and examined as a witness, testifies as follows :

BY MR. PARSONS : Q. Gen. Catlin, during what years were you District Attorney of the County of Kings ?

A. I was elected for my first term in 1877, and re-elected in 1880 : I left the office on the first of January, 1884 ; on the 31st of December, properly, of 1883.

Q. At how early a period in your incumbency of the office was your attention called to the gambling on the race courses at Coney Island ?

A. Once, I should imagine, in 1881. Never again until the newspaper called the Union and Mr. Comstock called my attention to it in June of 1883.

Q. Do you happen to remember the proclamation of Gov. Cornell upon the subject ?

A. No, sir ; he made a proclamation upon the subject of policy gambling ; none upon pool selling that I have any recollection of.

Q. When was Gov. Cornell's proclamation in reference to gambling in the shape of selling policy ?

A. I can not tell you ; I cannot tell whether it was the last of my term or towards the last or the first of my second term, and I would not be willing to say that it might not have been as late as 1882. I can't tell you, but I think I can get the information for you very quickly.

Q. It is the fact rather than the date to which I wish to direct your testimony ?

A. It is the fact that my attention was brought to such a proclamation, I think by Mr. Comstock ; I don't remember any other sources through which it was brought to my attention. I may have read it.

Q. During the time that you were District Attorney did you take any action upon the subject of gambling on Coney Island which brought you into such relations either with the Sheriff or with the head of the Police Department or any public authority of Kings County charged with authority to suppress crime ?

A. I can only say, sir, that after the attack or attacks

made by the Union upon the system of pool-selling at Coney Island—

MR. PARSONS : Gen. Catlin, may I interrupt you one moment. Before we get through with the examination I may have occasion to ask you about attacks in the Union ; but until I put that inquiry to you, have you any objection to withhold speaking of the Union ?

THE WITNESS : No, sir ; not at all.

MR. PARSONS : You see what I have asked you is about conferences between you and persons charged with the duty of suppressing crime?

THE WITNESS : Unless you speak of Mr. Comstock as charged with the duty.

MR. PARSONS : I am speaking of public officers ?

A. No, sir ; I think not ; I have no recollection. I wouldn't say I did not.

Q. Let me inquire then somewhat specifically : During all the time that you were District Attorney was there any correspondence—any communication which you now recall between you and the Sheriff upon this subject ?

A. Except it was when, as he called it, the raid was made upon the Brighton Beach race-track. I have no recollection of any other, sir ; but I wouldn't say there was not.

Q. Have you no present recollection of conferences between you and the Sheriff about this subject of gambling, except such as bore upon the raid of September, 1883 ?

A I have none ; no, sir ; not now. I haven't thought it over for a year or two. I have been out of office for three years and a half nearly.

Q. During the time that you were District Attorney what was the police system ?

A. The police of the City of Brooklyn refused to—

Q. I don't ask you what they refused to do. I want to find out what was the composition of the police in Kings County ; was there a Brooklyn police department and then a police department in each town ?

A. Each town had its constables or police officers, as they might be called.

Q. During your term as District Attorney was there any communication between you and any of the persons connected with the police in Kings County upon this subject of gambling?

A. Yes, sir.

Q. What is the first such occasion that you recall?

A. The first such occasion that I recall is sending one of my clerks or an officer down to Mr. McKane at Coney Island, directing him to suppress gambling at Coney Island.

Q. Do you remember when that occurred?

A. I cannot.

Q. Was there at any time in the year any communication between you and the police officers or authorities upon this subject?

A. I wouldn't say.

Q. Have you a recollection of anything in writing?

A. I have no recollection of that.

Q. Is the only occurrence which you now recall that to which you have referred when you sent a subordinate with Mr. Comstock?

A. That is so prominent in my mind that that is the only way that I remember.

Q. When did that take place?

A. I can't tell you, as I have just answered, whether it was before I went abroad or immediately after my return. I could not tell you, sir.

Q. Will you oblige me by fixing the period of your absence?

A. I started from here on the 20th of June, and returned about the first of August.

Q. Now, come to the Union, or to the paper called the Union?

A. With pleasure, sir; as it now is run.

Q. Has that paper, or has the public press of Brooklyn, at any time called attention to gambling as connected with horse racing at Coney Island?

A. In the middle of June, I should say it might be the

first part of June, 1883, the Union paper began a very serious attack against pool selling, and against me because I didn't stop it.

Q. Is the Union the only paper that dealt with that subject?

A. Yes, sir.

Q. In 1883?

A. Yes, sir; the only one. I won't say, Mr. Parsons, by any means that there may not have been attacks on the pool selling business and upon myself except in the Union, but I never heard of them and never saw them.

Q. The subject with which I am now concerned, General Catlin, is public notification to you that it was claimed that gambling was going on in connection with horse racing at Coney Island?

A. I understand you; I see.

Q. What date do you fix as the time when your attention, by the Union or other publications, was first called to the subject?

A. It was called to my attention by a reporter, I think, of the Union, and either before or soon after that by Mr. Comstock.

MR. PARSONS: I am now dealing with newspapers.

THE WITNESS: Well, he is a travelling newspaper.

MR. PARSONS: But I am not dealing with travelling newspapers; I am dealing with Brooklyn newspapers.

THE WITNESS: I don't mean to be offensive to Mr. Comstock by making that statement.

MR. PARSONS: Perhaps I ought to say in your hearing what I said in the hearing of Mr. Ridgway, that I have done my best to keep Mr. Comstock's name out of this inquiry.

THE WITNESS: Well, you can't, sir.

MR. PARSONS: I see I can't.

THE WITNESS: No, he is all there is of it.

MR. PARSONS: But permit me to say that I have a right to have direct answers to my questions, and if, therefore, I

do not put to you a question which brings in Mr. Comstock's name, it can only come into the testimony by some voluntary effort on your part.

THE WITNESS : It will cease entirely.

Q. Now, come down to this public information that you received about gambling.

A. That is what I received.

Q. I want to fix the length of the interval before your departure for Europe during which you were aware that the newspapers were calling attention to this subject?

A. I think it was the fore part of June, Mr. Parsons, that the newspapers began this attack upon pool selling, and called my attention to it, and also the representatives of the Union calling upon me about it and inquiring what I proposed to do about it, and all that sort of thing.

Q. Now, sir, I ask you first: whether having had your attention called in this way to the subject, you as District Attorney took any official action about it?

A. No, I took no official action. I will tell you what action I did take.

Q. I only wish to know what action was taken by you in your official capacity as District Attorney?

A. I think that would be what I desired to say to you. All that I desired to say to you would be the action that I took in my official capacity. I told, in the first place, the reporter of the Brooklyn Union my relations with the subject of racing—

Q. I think, General Catlin, if you will permit me to say, that you misapprehend my question entirely, and perhaps I ought to preface it by asking you whether you had subordinates in your office at the time?

A. I did, yes, sir.

Q. Of whom did your office staff consist?

A. My first assistant was Mr. Foster L. Backus; Colonel John Oakey was my second assistant; Mr. Robert Bussing was my third; Mr. William H. Bacon was my chief clerk; Mr. Herbert B. Taylor was my second clerk. Then I think I had seven officers; five I think at first and then

I believe it was increased until when I retired from the office I had seven officers.

Q. Now pass outside of your personal staff and inform the Committee what was the relation between you as District Attorney, to the Police authorities, both of Brooklyn and of Gravesend?

A. I don't know what our relations were specially; I was District Attorney, and they were Police.

Q. What control over them did you have?

A. None at all; not the slightest.

Q. Suppose that you wished to suppress crime, what were the instructions that you could use for the purpose?

A. I could take my officers or go with my men wherever the crime was being committed and arrest the offenders.

Q. Is that the limit of your power as District Attorney?

A. I think so, sir, excepting by subpoenaing witnesses before a magistrate.

Q. Take the case of some crime other than gambling: suppose a murder had been committed during your term of office, and there was difficulty in ferreting out the person who had been guilty of the crime?

A. I understand what you want now.

Q. Well, would you not be a center of the efforts for the arrest of the offenders?

A. No, sir, by no means; the commissioner of police.

Q. Did you have nothing whatever to do with that subject?

A. I had nothing that was required of me by law to do. Of course in a moral sense I would do everything I could do in such a case as that. I would go to the commissioner of police and ask him to do everything he could with his detectives to ferret out the crime.

Q. Is not that according to the course of business of the District Attorney's office, that crime having been committed, the District Attorney does put himself in relation with the police authorities in efforts to detect the offenders?

A. If a serious offense is committed that comes to my attention I take special pains to watch with regard to it

and to have the offenders arrested ; I did that when I was District Attorney, and then prosecuted.

Q. Did you do this through the police authorities ?

A. Yes, sir ; almost all crimes come to the District Attorney's office through the arrest by police officers, without any interposition of the District Attorney or Commissioner of Police even. It is their duty when they see or hear of crime committed to arrest the offender and bring him to the station house, and then take him to the magistrate, and have him committed and examined, etc., and if he is indicted then the District Attorney prosecutes him.

Q. Have you any objection to let me know whether before your departure for Europe you gave any instructions to the police or took any action whatever concerning them, towards suppressing gambling or arresting gamblers on Coney Island ?

A. Not with the police, sir ; I had nothing to do officially with the police at Coney Island.

Q. Did you do anything of that kind with your personal office staff ?

A. I had several conversations with Mr. Backus about pool selling.

Q. What did you tell Mr. Backus to do ?

A. I told Mr. Backus to have these parties prosecuted just as he would any other offenders, complaints being made against them.

Q. What is the significance of that expression : "Complaints being made against them?"

A. Evidence being produced against them. To take anybody before the Grand Jury, to take anybody before the magistrate and prosecute anybody who was indicted by the Grand Jury. Those were my express orders to Mr. Backus, and I specially told him to, but I won't mention the gentlemen's name that I was about to mention.

MR. PARSONS : Listen, General Catlin, to your answer while it is read to you by the stenographer and state whether that is all that was done by you in the direction of instruction to the subordinates of your office.

The last answer was then read by the stenographer and the witness replied :

THE WITNESS : That is all I told him.

Q. What I wish to ascertain, you perceive, is exactly what was done by you, either individually or in the nature of directions to your subordinates, which looked to the suppressing of gambling on Coney Island ?

A. That is all I did through my subordinates. But I desire to add what I did and what I said.

MR. PARSONS : Permit me to say this, General Catlin : if any question put by me suggests the wish on your part to say anything you regard as explanatory or as calculated better to represent the situation, you will at any and at all times state what you desire.

The WITNESS : Exactly; but I may forget it and I have no counsel here to remind me.

MR. PARSONS : But I wish you to do it now.

The WITNESS : I ask the Committee through you, that I shall have the opportunity now.

MR. PARSONS : That is the point I am suggesting, that you do it now.

The WITNESS : Mr. Comstock came to see me about the same matter, and he said he had two men at Coney Island Race Track, the Brighton Beach, who were under him as detectives, and that they were there for the purpose of furnishing evidence upon which to get indictments against pool selling down there. I told him—I think I referred him to Mr. Backus; at any rate I told Mr. Backus when I went abroad, to whom I gave absolute power as District Attorney as though I had been here, and who was working incessantly against all kinds of gambling, to entertain any complaint that Mr. Comstock should make in reference to that subject. And then I went away.

Q. That was the situation when you left for Europe ?

A. That was the situation when I left for Europe ?

Q. What was done by you subsequent to your return and down to the 1st of January, 1884, when you were succeeded by District Attorney Ridgway ?

A. The first thing I did was to read back copies of the Union to see what a bad man I was on that subject. I think

I saw Mr. Comstock also ; I know I saw Mr. Backus, and Mr. Backus was, as I understand, constantly in relation with Mr. Comstock on the subject of this pool selling, and I told Mr. Backus, and I repeated it, to do anything that Mr. Comstock wanted him to do in the matter, that he had his men down there, and that he had assumed to take charge of it, and to furnish evidence upon it, and that when he wanted to make any movement against the pool sellers that he must comply with his request upon the subject.

Q. Do you mean to be understood that you did nothing whatever upon your official responsibility as District Attorney ?

A. I mean to be understood just this way that I did just what I have sworn I did, and your repeating the questions can't get it any stronger.

Q. As I understand, General Catlin, your previous answer limited Mr. Backus to action upon some complaint or action by Mr. Comstock ?

A. Action upon complaint by Mr. Comstock or any other person or persons who should wish to make complaint.

Q. What I want to make perfectly clear is as to whether you did or did not do anything spontaneously upon your official responsibility as District Attorney ?

A. I understand what you mean, that I disregarded Section 349 of the Code so far as it is interpreted by Mr. Comstock and his disciples.

MR. PARSONS : Now, General Catlin, I don't know, and I don't believe anybody here knows, what interpretation Mr. Comstock and his disciples put upon Section 349 of the Code ; and, what is more important to us to know, sir, is the interpretation which you put upon that Section of the Statute. What I want to find out is :

Q. What was done by you spontaneously, under the law, in the discharge of your public duty, or in any other way ?

A. I did nothing, I say, except what I have said that I did, except sending to Mr. McKane, as I have told you already, instructions that he must suppress gambling on Coney Island.

Q. Did you do anything of that kind after your return from Europe?

A. That was, I think, after my return from Europe, as I recall the matter; my mind is refreshed about it from talking it over here with you.

Q. Have you seen the official copy of the testimony of Mr. Ridgway?

A. I have not, sir; I haven't read any of it.

Q. Mr. Ridgway produced a letter, reading from which he said that in the month of December, 1883, in the last month of your holding the office of District Attorney, there were nolle prossed a large number of indictments against persons for offenses against the gambling statute; do you recall that that took place?

A. Yes, I recall that there were some fifty indictments dismissed; policy indictments exclusively.

Q. By that do you mean anything different to being nolle prossed?

A. Under the new Code, Mr. Parsons, we haven't the discretion to nolle prosee. We have to make our motion to the Court, and the Court has to grant our motion. The Court may refuse to dismiss an indictment. It is rather in the discretion of the Court to dismiss an indictment than in the discretion of the District Attorney. That is where the joke is.

Q. My question is, whether nolle prossing is one thing and dismissing another, or whether they amount to the same thing?

A. No; they are different.

Q. Where is the difference?

A. Well, I understand the difference to be that, in nolle prossing under the old statute, it was more a matter of the District Attorney's discretion to do that, while under the new system you have to make your motion formally, and bring the matter before the Court and give your reasons why you want the indictment dismissed; and if the Court is satisfied with the reasons you present he orders that they be dismissed, and that is entered upon the indictment. While I was District Attorney of Tioga County, I don't

remember that I used that *modus operandi* ; I think I dismissed my indictments myself.

BY MR. ARNOLD : Q. That is the new provision of the Penal Code ; that is done on motion ?

A. Yes, sir.

BY MR. GREENE : Q. Even when you nolle prossed you always consulted the courts, didn't you ?

A. Yes ; I consulted the Court, no doubt.

Q. That has been the custom twenty years or thirty ?

A. Yes, sir ; but under the new Code you have to make a motion formally and give your reasons, and the Court may disagree with you.

BY MR. COLE : Q. But might not the Court disagree with you under the old statute ?

A. I don't remember ; it might have been.

BY MR. PARSONS : Is there any way of terminating an indictment but by an order of the Court ?

A. I don't know.

Q. Is there any way of doing it but by order of the Court ?

A. I presume not.

MR. ARNOLD : The indictment itself is now a part of the record before the Court, and you cannot dismiss it without the consent of the Court.

MR. PARSONS : I think I was Assistant District Attorney for New York County before you were District Attorney of Tioga County, and—

THE WITNESS : Yes, I remember. I distinctly remember an indictment you drew for me once in the United States Court here in Brooklyn, and I tried a couple of gentlemen under it and sent them to the penitentiary for you.

BY MR. PARSONS : Q. Have you a sufficient recollection of the circumstances under which that large number of cases under the gambling statute were dismissed in the month of December, 1883 ?

A. Well, it is so old that you can hardly call it fresh, but I remember distinctly the circumstance.

Q. The point of my inquiry is whether you can answer more accurately by looking up the subject ; if so I would prefer to have you do so.

A. No, sir.

Q. If you can answer now, I wish to learn what were the circumstances ?

A. There were in the last week of my second term of office brought into my private office batches of indictments that would cover at least that table in front of me ; indictments that had accumulated under my administration, and possibly old indictments that were on file under my predecessor ; and the object of it was to select from that large number of indictments those that should be nolle, as the old language is, and those that should be turned over to my successor. Among them were 45 or 50—the records of the Court of Sessions will tell you how many there were—45 or 50 were policy indictments that had accumulated from 1881 ; about, I should say, the middle of 1881, down to the time that that action was being taken. Colonel Oakey and my chief clerk were present on that occasion ; I had talked with Mr. Backus frequently about it before. The indictments that had been secured by Mr. Comstock—permit me to use his name in this connection, because it is the only way that I can give it——

MR. PARSONS : Certainly. I ask of you to state the circumstances, and that embraces everything that belongs to the subject.

Answer (continued) : I selected out of that every one of the indictments that Mr. Comstock had anything to do with whatever, except perhaps four or five where the witnesses, if I remember, were either dead or out of town ; but indictments where he or his men were witnesses, and where he said he had a good case against the policy dealer, I told Mr. Oakey and told Mr. Bacon—I said, “Those cases I want you to turn over to my successor ; they are cases that Mr. Comstock claims are his cases, and I want them turned over to my successor ;” and I stated another reason, which is private and peculiar, and I

don't care to mention it here, why I turned it over to my successor. I repeated it and told Mr. Backus that that must be seen to and that none of those indictments should be nolle.

Q. But I am asking about the circuit under which the indictments were returned, Isaac S. Catlin, under which the indictments were returned?

A. I don't know; that is just what I never knew they were nolle until they were dismissed, when Mr. Comstock came out with a very severe and savage attack against me.

Q. Does that mean that these indictments which Mr. Ridgway has specified as having been returned in September, 1883, were indictments as to which Mr. Backus, your assistant, the instruction was to be dismissed?

A. Specially to Mr. Oakley and to Mr. Backus, and to Mr. Backus on different occasions I put the papers in a pile by themselves.

Q. All I wish to be sure about is that the indictments referred to by Mr. Ridgway as being the indictments to which relate your Oakley and your chief clerk?

A. I assume so. I didn't dismiss any. I suppose ten or fifteen pool indictments were found in September, which we were to dismiss in September, but could not get tried.

Q. When first did you learn that the indictments which, according to your instructions, were to be dismissed, had actually been dismissed?

A. Not until Comstock's attack in the fall.

Q. I ask you about the time?

A. I could not tell you; I think a week or so.

Q. A week or so after the first of January?

A. I think so; I couldn't say that it was in January, but my impression is that it was ten days after the first of January.

Q. There is testimony in this investigation that persons convicted during your term of office under the gambling laws against whom you moved for sentence, and that when Mr.

District Attorney the cases were in ,that situation that it was left for him to move for sentence?

A. I think there were some such cases, but I don't know what they were; they were cases over which Mr. Backus had absolute control, so far as an assistant could have control over anything in the District Attorney's office.

Q. Was it not, while you were District Attorney, rather an extraordinary occurrence for the District Attorney to omit to move for sentence of a convicted criminal?

A. I think Mr. Backus did move; I think he did move for sentence, and that the Court said it would not, for some reason, sentence; but there had been somebody convicted in another Court, and sentence had been reserved in that Court, and until that was disposed of the other cases would not be disposed of; in other words, that there was one case, I think of Stone, before Judge Moore, the presiding Judge of the Court of Sessions, and another before Judge McCue up stairs; I don't remember about it exactly, and I never should have thought of it again; I heard Mr. Ridgway said so, but I don't think he meant it—he didn't mean it because I dismissed no pool case at all.

MR. PARSONS: Mr. Goodrich seems to be of the opinion that Mr. Ridgway corrected his testimony in that regard; I don't happen to remember about that myself; we will ascertain about it in a moment.

THE WITNESS: It would be a pure mistake if Mr. Ridgway made any such statement.

Q. Do you mean to be understood that at the expiration of your term of office there were no criminals convicted of offences under the gambling statute, against whom you had not moved for sentence?

A. I think not; I wouldn't be certain about it, because I relegated that entirely to Mr. Backus; he will tell you.

Q. Do you mean to be understood that if there were such an occurrence you have no recollection about it and are not able to explain it?

A. I cannot, fully. Mr. Ridgway evidently meant the policy indictments. Of course, it is an absolute matter of record; of course, there cannot be any mistake about it.

Q. General Catlin, I wish you to understand the state of

the record at the present time. According to the testimony now before the Committee, there were two or three cases of persons convicted, during your administration, of crime under the gambling statute for whose sentence no motion had been made.

A. Well, I think that is a mistake.

Q. I wish you to ascertain what the fact is in that regard so as to be able to give definite information to the Committee?

A. Yes, sir. I will have to ask Mr. York here to give me the information.

Q. The names, I understand, were Mangen, Smith, Walker and Carl Fuller?

A. I think those were men that were tried before Judge McCue.

MR. PARSONS: Yes, I think that they were described by Mr. Ridgway as having been tried before Judge McCue.

MR. ARNOLD: Will it not be well to read to General Catlin Mr. Ridgway's testimony in that regard on pages 681 and 682?

MR. PARSONS: There can be no objection to that. Now, General Catlin, if you are not prepared to make a complete explanation at this moment as you could do at a later period, I prefer you to look the subject up and come prepared on next Monday to give it.

THE WITNESS: I cannot. All I could swear to is what Mr. Backus would tell you.

MR. PARSONS: On Monday morning I will again call your attention to this subject in order to ascertain whether you had anything to do with that subject.

BY MR. PARSONS: There have been mentioned during this investigation the names of these persons: George H. Engeman, William A. Engeman and A. H. Battersby.

A. I know them all.

Q. And Paul Bauer?

A. Yes, sir; I know him.

Q. Have you ever had personal acquaintance with either of these persons?

A. All of them.

Q. From what time?

A. Fifteen years.

Q. Have you ever had professional relations to either of them?

A. No, sir. I was asked to be retained by Mr. William Engeman in his life time.

Q. When?

A. I don't know.

Q. Before being District Attorney?

A. No, sir.

MR. PARSONS : Then I don't intend to inquire about things which have happened since you were District Attorney.

THE WITNESS : I know I hated awfully to give up the fee.

Q. Do you mean it was while you were District Attorney?

A. Yes.

MR. PARSONS : If it is, then it is most pertinent for me to ask you about the circumstances.

THE WITNESS : A young gentleman whom I met in the streets once in a while but whose name I did not know, asked me if I would accept a retainer from William Engeman on some difficulty they had on the Concourse down there in front of his place. I told him, under no circumstances would I accept a retainer, as much as I wanted it and as much as I needed it; that I would always be prepared if Mr. Engeman was complained against—I should always be prepared to do my duty as a District Attorney, and that I could not do it if I accepted the money.

BY MR. PARSONS : Q. What was there in your mind at that time which led you to think that Engeman might be complained against?

A. Just what I have told you, that I stood ready to do my duty as District Attorney when complaints were made against any offenders, arising from pool selling or anything else

Q What I wish to ascertain is, whether at that time you associated Engeman as having any relation to crime?

A. Because I knew they were having races on Coney Island.

Q. But what relation did that have to crime?

A. Because there was pool selling, I presume.

Q. When did this occur?

A. I cannot tell you; I think it was in my second term, and yet I wouldn't be positive about that.

Q. Can you recollect whether it was before or after your departure for Europe in 1883?

A. I went to Europe in 1882 and 1883 both.

Q. Well, I limit my inquiry to your departure for Europe in 1883?

A. It had not anything to do with my departure for Europe.

MR. PARSONS: Your mind works more rapidly than mine.

THE WITNESS: Oh, no, it doesn't; oh, no; it would be a very clear mind that works any more rapidly than yours, sir.

Q. What I wish to ascertain is, whether this occurrence was prior to your leaving for Europe in 1883?

A. Oh, yes, long prior.

Q. Was it as far back as 1882?

A. Yes; I think it was the very latter part of the first term, or the first of my second term.

Q. Where did you form the acquaintance of Engeman?

A. When I first came to Brooklyn. I came from Louisville, where I had served in the Regular Army under General Thomas, on his staff—

MR. PARSONS: General Catlin, you know that we all appreciate your military record; but that is not the subject of my inquiry.

A. (Continued) And I had a Kentucky team which I used to drive down to Engeman's, which was the only one in that part of the island at that time. And I used to drive down there perhaps two or three times a week, and I became as well acquainted with him as I did with Frank

White, or Mr. McGroarty or any of the gentlemen who kept hotel or restaurant in the city of Brooklyn.

Q. When did you become acquainted with Battersby ?

A. I don't know ; Battersby's brother was a sergeant of police and a member of my Post in the Eastern District of Brooklyn—my Post in the Grand Army ; and I think I was introduced by his brother at the time when he was a school teacher, a good school teacher, and I have no doubt a Sunday-school teacher, down in Coney Island.

MR. GOODRICH : In McKane's school was that ?

THE WITNESS : A very clever man.

Q. When did you become acquainted with Paul Bauer ?

A. I think ever since he built that great hotel of his down there. I know everybody in Kings County, almost. I had to canvass it twice for District Attorney, and I went wherever I could get votes.

Q. Have you been acquainted with the gentlemen whose names are identified with the association known as the Coney Island Jockey Club ?

A. I never met any of them until this last summer.

Q. Is that so as to all persons who have been officers or members of that association ?

A. Every one of them. I never saw one of them nor spoke to one of them, except you call Mr. Pinkerton one of them.

MR. PARSONS : I don't.

THE WITNESS : No. Mr. Pinkerton has done work for me.

MR. PARSONS : That is I don't, if you mean Mr. Pinkerton the detective.

THE WITNESS : I do. One of God's noblest.

Q. Have you now stated all that has been done by yourself during your entire official incumbency in Kings County towards suppressing gambling on Coney Island ?

A. Yes, sir; I think so. I haven't done half as much as my first lieutenant has done, because he had charge of it for me and under my directions and instructions; and if

you will do me the kindness, or if the Committee will do me the kindness, to call Mr. Backus, he will give you any details.

MR. PARSONS : I think it is right that Mr. Backus shall be called, and I propose to call him ; but he cannot know what you know, nor as you see do you know what he knows ; therefore, you perceive I have to question you separately.

Q. And I wish to ascertain, General Catlin, if it be so, whether you have now stated all that has been done by you either in the nature of action or direction towards suppressing the gambling at Coney Island or in Kings County.

A. All that I can think of now.

Q. General Catlin, since your attention was called to the dismissal of these indictments in December, 1883, have you made any effort to ascertain the circumstances which account for it?

A. Well, I have ; yes. I have asked Mr. Oakey and I have asked my chief clerk, Mr. Bacon, and I have asked Mr. Backus and Mr. Bussing, and they all expressed profound ignorance of how it could have happened.

Q. Do they deny that it did happen ?

A. They deny that they had any hand in its happening.

Q. Who other than the gentleman whom you have named could have any instrumentality in procuring the dismissal of indictments in your office ?

A. Nobody. The chief clerk had nothing to do with it.

Q. When did you make this inquiry of these gentlemen?

A. Right after I read the article in the Union.

Q. That was in the first week of 1885 ?

A. I should say so, but I don't remember.

Q. Do you wish to be understood, General Catlin, that these gentlemen assume to say that they have not the ability to explain the circumstances that took place upon that proceeding ?

A. Every one of them.

Q. Did you rest on that statement, that they could not explain so recent an occurrence ?

A. Yes, sir.

Q. Did you ever examine the record of the Court upon that subject?

A. Well, I don't know that I did personally. I had the records examined. I hate records, and if I can have a clerk do what I can not do as well, I make him do it.

Q. Was there anything in the records of your office or in the records of the Court to indicate that this dismissal occurred in any other way than according to the ordinary routine of your office?

A. Yes; yes, sir. I instructed that upon every indictment that should be dismissed, there should be some little history of the reason why it should be dismissed endorsed upon the indictment. There was no such history endorsed upon these indictments, and the only thing upon them was the name of Mr. Comstock and his witnesses. I discovered that.

Q. Who sat in the Court of Sessions as Judge in December, 1883?

A. The only gentleman that could sit, Judge Moore.

Q. Have you ever examined to see in whose handwriting are the records (whether you hate them or whether you don't hate them), which show the dismissal of these indictments?

A. I haven't myself, but I have ascertained that the writing was, I think, by Mr. Winter.

MR. PARSONS: I prefer to take from you only that which you know upon this subject; it may be a serious subject, General, and I desire to have from you only that which you know—

THE WITNESS: Not that I can speak of with certainty.

MR. PARSONS: I prefer to take only that which you know of the man or of the clerk in whose handwriting are the minutes endorsed upon these papers.

THE WITNESS: I think my present chief clerk, Mr. Wells, could speak of it. I know I had the subject looked up, and I did know at one time who did write the order

or the allowance of the order upon the back of the indictments.

Q. Have you a personal recollection of whose handwriting it was?

A. I thought it was Mr. Winter ; but Mr. York, who is sitting here by me, says that it is his handwriting.

Q. Who is Mr. York ?

A. The Clerk of the Court of Sessions. I have got the impression that the handwriting was in that of somebody else, and I am very glad to have him tell me that it is his.

MR. PARSONS : There are two subjects, General Catlin, as to which I shall certainly examine you further, and I hope that you will obtain such information as you can, so that you can testify upon the subject, rather than to inquire about it further now. First, the dismissal of these indictments, and secondly, this matter of omission to move for sentence of persons convicted under the gambling statute.

THE WITNESS : And will you agree also to advise the Committee, Mr. Parsons, to call Mr. Backus ?

MR. PARSONS : My associates and myself call the witnesses, and we will call Mr. Backus, unless your evidence renders the subject perfect.

John Mitchell, Jr., being duly sworn and examined as a witness, testifies :

BY MR. GOODRICH : Q. What is your business ?

A. At present I am a bookkeeper ; clerk.

Q. Were you ever in the office of Coroner Menninger ?

A. Yes, sir.

Q. When ?

A. The past three years—that is, from January, 1883, up until the first of last January.

Q. During that time did you assist in the bookkeeping of any of the race-course corporations or associations ?

A. No, sir.

Q. Did you assist any of the racing corporations in their business ?

A. Yes, sir.

Q. Whom did you assist ?

A. I was employed by Mr. Hoff, the Chairman of the Executive Board.

Q. Of what racing association ?

A. The Brighton Beach Racing Association.

Q. In what year was that ?

A. The last year ; last summer.

Q. During the whole of the summer ?

A. Pretty much ; yes, sir.

Q. Did you see packages of money made up while you were there ?

A. Certainly ; yes, sir.

Q. Do you know of cases where packages of money were put up for any special purpose, to be taken away from the course ?

A. I saw money put up in packages there at the race course ; I used to assist myself, sometimes, in counting the money.

Q. What became of the money that was put up in packages ?

A. I don't know.

Q. When you saw it last, what became of it ?

A. I suppose it was taken and put in the sale.

Q. Did you see any money in packages except what you put in the safe?

A. No, sir.

Q. In no case?

A. I don't remember any; no, sir.

Q. Didn't you see any money sent away from the office that you refer to?

A. The place where I was employed was a sort of little office, and they sent the money in packages over to the other office.

Q. What other office?

A. Why, the manager's office; Mr. Battersby's office.

Q. Where do you say you saw the packages made up; was it where you were at work?

A. Where we were at work; where the money was taken in.

Q. Was it at the Brighton Beach Racing Association?

A. Yes, sir.

Q. Don't you know and haven't you stated, that money was put in packages for the purposes of what was known as advertisement?

A. No, sir; I never made any such statement.

Q. Didn't you make that statement to Dr. Menninger?

A. No, sir.

Q. Didn't you make any statement to Dr. Menninger about money put up for any purpose, about advertisements, protection, or sending it out for any particular purpose of that kind?

A. No, sir; I could not make any such statement, because I didn't know that it was; I supposed the money was put in the safe; that it was a surplus after they had paid the tickets—redeemed the tickets; after that was done, why, the surplus was made up in packages and sent to the office.

Q. To the office?

A. To the other office, yes, sir.

Q. Who took it to the other office?

A. It was taken by Mr. Hoff.

Q. In all cases taken by Mr. Hoff?

A. Yes, sir; at the close of the day's business.

Q. Do you know anything about the banking of the money ?

A. No, sir.

Q. Do you know anything about it after you saw it put in the safe or sent to that office ?

A. I never saw it put in the safe, but I saw it put in a cash box, and supposed it was put in the safe ; I didn't see it, but supposed it was put in the safe.

Q. Was it put in the safe in your office, or sent to the other office?

A. No, sir ; the other office.

Q. You don't know what became of it after it left your office ?

A. No, sir.

Q. Don't you know that it was put up in sums of thousand dollar packages ?

A. No, sir ; not in thousand dollar packages. As I said before, it was a surplus after the business was finished up for the day, and it was put in a package.

Q. Haven't you said to Dr. Menninger, or to some else, that the money was put up in packages of a thousand dollars for daily use for the purpose of protection ?

A. No, sir ; I don't remember making any such statement.

Q. Have you ever said anything to Dr. Menninger on the subject ?

A. I might have ; I don't remember.

Q. What have you said on that subject ?

A. I talked about being down there, but I never mentioned about the money for advertising purposes, because I didn't know what the money was used for.

Q. Did you assist in making up these packages ?

A. Well, yes, occasionally, yes, sir.

Q. And in what amounts did you make up these packages--the various packages you made up ?

A. I would assist to count the money and probably might assist in putting up the package.

Q. Was it assorted in packages of five hundred or a thousand dollars or something of that kind ?

A. No, sir ; it was all made up in one package, the surplus.

Q. And it was put in the tin box, and that is the last you saw of it, as I understand you ?

A. Yes, sir.

Q. What is Mr. Hoff's name ?

A. Charles A. Hoff.

Q. Where does he live ?

A. I don't know ; in New York somewheres.

Q. What is his business in connection with the Brighton Beach Racing Association ?

A. He is chairman of the executive committee.

Q. How much time were you down at the race course during the last year ?

A. How many days, do you mean ?

Q. Yes.

A. I hardly remember ; I was there pretty much all the season.

Q. During the time that you were there was bookmaking going on ?

A. Yes, sir, I believe it was.

Q. Any pool selling ?

A. No, there was no pool selling there ; they sold membership tickets.

Q. What do you mean by membership tickets ?

A. Well, I know very little about the outside business.

Q. It is another species of registering bets, isn't it ?

A. I have an idea what it was.

Q. Give me your idea ?

A. It has been explained in the newspapers, and that is about where I got my information.

Q. Give me your best idea, so that we who are ignorant upon the subject may be informed ?

A. A person became a member of the association by ticket.

Q. And paid five dollars, I suppose ?

A. Yes, sir ; and he shared in the dividends.

Q. That is, the dividends declared from the races ?

A. Yes, sir.

Q. In other words, it is another species of betting on horse racing?

A. Yes, sir.

Q. As Mr. Cole suggests, a sort of co-operative mutual benefit association?

A. Sort of.

Q. It was not charitable?

A. I don't know that it was.

Q. It is another species of bookmaking or gambling, is it not, in your judgment?

A. Well, they say it was, but I don't know.

Q. You understand it is a method by which you put your money in a pool, and the ownership of the money thus put in is decided by the result of the races between horses?

A. Well, yes; if the manager declares a dividend at the close of the race or close of the day.

Q. But that is dependent upon the result of the races between horses, is it not?

A. I don't know I am sure.

Q. Do you know where Mr. Hoff lives?

A. Yes, sir.

Q. What was his connection with the association?

A. Chairman of the executive committee.

Q. When did you last see him?

A. Not since last summer; I left there last fall.

Q. You haven't been doing any business for the association since last fall?

A. No, sir.

BY MR. PARSONS: Q. What is your present occupation?

A. I am keeping books.

Q. For whom?

A. For a firm in New York City, Low & Company.

Q. How long did you do anything at the Brighton Beach Course?

A. I began in the early part of the summer and finished in the latter part of the summer.

Q. Only one year?

A. Only one season.

Q. In 1886 ?

A. Yes, sir.

Q. You were there during the entire season of 1886 ?

A. Yes, sir.

Q. How came you to be employed ?

A. I spoke to Mr. Hoff, and he asked me to come down there and he employed me.

Q. When did you see Mr. Hoff ?

A. At his office in Jay street, Brooklyn.

Q. What did he do at that office ?

A. I don't know what he done.

Q. What do you call it—an office ?

A. The office of the Brighton Beach Racing Association; I saw him at that office ; that is where he invited me to come.

Q. When did you become acquainted with him ?

A. Last spring.

Q. How did you become acquainted with him ?

A. Through Mr. Engeman.

Q. What Mr. Engeman ?

A. Mr. George H. Engeman.

Q. When did you become acquainted with Mr. Engeman ?

A. Oh, I have known him years ; four or five years.

Q. Did you ever have anything to do with the Brighton Beach Race Course until last season ?

A. That is the first, yes, sir.

Q. In connection with what business were you acquainted with Mr. Engeman ?

A. Oh, I met him in a social way, that is all.

Q. When did he introduce you to Mr. Hoff ?

A. Last spring.

Q. Where ?

A. At the office over in Jay street.

Q. I understand you to say you went to the office to see Mr. Hoff ?

A. No, to see Mr. Engeman. Yes, I did go to see Mr. Hoff, and I first saw Mr. Engeman and he told me he would introduce me to Mr. Hoff.

Q. Where did you see Mr. Engeman ?

A. At the office of the Brighton Beach Association.

Q. Do you mean that this all occurred on that one occasion?

A. No; I saw Mr. Engeman first, and he told me I would have to see Mr. Hoff and he would introduce me, and he told me when I could see Mr. Hoff.

Q. What sort of situation did you ask for?

A. I asked to be employed down there in the cash room.

Q. Was there a cash room?

A. Yes, sir.

Q. How did you know that there was a cash room?

A. I heard there was.

Q. When did you learn that?

A. From Mr. Battersby.

Q. When did you become acquainted with Mr. Battersby?

A. Five years ago; ten years ago, I guess.

Q. Before you became acquainted with Mr. Engeman?

A. About the same time. I was then employed by the Brighton Beach Railroad, and of course they had business in the office, and I got acquainted with them in that way.

Q. When you entered upon your employment were your duties in the cash room?

A. For a few days; yes, sir.

Q. Did you find that the cash room corresponded with your idea of it before you went there?

A. Well, yes, pretty much.

Q. From whom did you get this idea of what went on in the cash room?

A. When I spoke to Mr. Hoff he told me about all I would have to do down there.

Q. Yes, but I understand that your application was for employment in the cash room?

A. I didn't use that exact language; I wanted to be employed down there, but not on the outside. I knew that there were cashiers that cashed tickets.

Q. Do you mean the tickets for pool selling?

A. No, sir; I mean membership tickets.

Q. The same tickets which you described in answer to

Mr. Goodrich and for which a payment of five dollars made one a member of the Mutual Benefit Association ?

A. Yes, sir.

MR. GREENE: It does not appear, Mr. Parsons, whether all these tickets drew prizes. I should like to find out.

Q. Judge Greene wishes to ascertain whether each ticket drew a prize; please to inform him ?

A. That depends altogether on the management.

Q. Well, how did the management arrange that sometimes a ticket drew a prize and sometimes not ?

A. I don't know ; I know very little about that part of the business.

Q. What we want to find out by you is to learn the mode in which the business was done between the time the cash came into the cash room and from whose tickets it came, and following it up to the last place where you had any notice of it ; describe that ?

A. The money was brought into the cash room and was counted over; it was brought in with slips and we counted it and found out whether the money was correct.

Q. All this money came from the members, did it not ?

A. Yes, sir.

Q. To whom did the members make the payments of five dollars a ticket ?

A. To the men outside ; the sellers.

Q. The sellers ?

A. Yes, sir.

Q. Was that the name of those men ?

A. Yes, sir ; that is what I call them.

Q. The sellers ?

A. Yes, sir.

Q. Were these sellers at places called booths ?

A. No, sir.

Q. What was their occupation ?

A. They were just outside of the cash room there ; a sort of booth ; yes, sir.

Q. Did these booths communicate with the cash room ?

A. Yes, sir.

Q. How many clerks were there employed in the place you described outside of the cash room ?

A. Well, I think about ten or twelve.

Q. And did their duties consist in selling tickets and receiving money for the tickets?

A. So I supposed; I had no connection with it, and I never was outside there, not during the business; my time was occupied inside there during the time I was there.

Q. How did the money come from them to the cash room; did it come at different times during the day, or only at the close of the day; and if it came during the day, what was the course of business?

A. At the close of each race it came into the cash room.

Q. How many races were there each day during the course of the day?

A. Sometimes five, sometimes six, and there may have been as many as seven.

Q. Commencing about what hour in the day?

A. About half past two.

A. Does that mean that there was a special striking of cash balances as the races were won or lost?

A. Yes, sir.

Q. How much money during the course of a day has come to the cash room?

A. About eighty thousand.

Q. Eighty thousand what?

A. Eighty thousand dollars.

Q. Is that \$80,000 a good day's work or a poor day's work?

A. A very fair day's work.

Q. How large an amount have you known to come in in one day?

A. That is about the highest that I have seen it, and I have seen it as low as \$40,000.

Q. Have you never seen it higher than \$80,000?

A. I don't remember, I don't think so.

Q. Did it all come in bills or money?

A. Yes, pretty much all bills and silver and gold.

Q. Never in checks?

A. Oh, no.

Q. Always in money?

A. Yes, sir.

Q. How many persons were there in the room?

A. They varied; when I first went there, I think; eight or ten.

Q. Were they all employed in counting?

A. No, they counted money and paid out the dividends.

Q. They both received and disbursed?

A. Yes, sir.

Q. How did they know how much to disburse—how much to pay as a dividend?

A. Mr. Hoff decided that, as chairman of the committee, I believe; that was what.

Q. Where was Mr. Hoff's employment?

A. Yes, inside and out; he was on duty all day, and sometimes he was over in the room.

Q. Was he the head of your department?

A. Yes, sir.

Q. Did he have a residence in the city?

A. I don't know.

Q. Did he ever have?

A. I don't know.

Q. Have you ever been at the place?

A. No, sir.

Q. Have you ever heard where he resided?

A. I heard that he resided in New York.

Q. New York City is a pretty big place.

A. Not the street, the number I don't know, somewhere up town, believe.

Q. Is that as definite as you can be about Mr. Hoff?

A. Yes, sir.

Q. Have you ever seen him in New York?

A. No, sir; I never met him in New York.

Q. Did you answer to Mr. Goodrich when he called for him, and if not, tell me when you last saw him?

A. The latter part of last summer is the last time I saw him. Oh, no, it was in the fall.

Q. Who was the person last in the order of occurrence to whom went what was left over of this money?

A. Mr. Hoff took whatever there was at each night at the close of business.

Q. Do you mean to be understood that you have no knowledge what became of the money after it went into the hands of Mr. Hoff?

A. No, sir.

Q. What was the amount of balances from time to time?

A. Oh, I have no idea; I haven't the remotest idea what it was.

Q. Do you mean to be understood that but one package was made of the entire amount which remained as balance at the end of the day?

A. They have bills, you know, in one package, but the silver and gold was put in bags.

Q. Were there desks for each of these ten or twelve clerks at which they discharged their duties?

A. I made a mistake. We turned over the money with a ticket.

Q. You are coming now to what we want. Describe the turning over of the money with the ticket?

A. At the close of each day we turned over the money with a ticket and Mr. Hoff took charge of it and put it in the cash box.

Q. Each one of the clerks?

A. Yes, sir.

Q. Of whom there were ten or twelve?

A. Not of the clerks. There were tellers there.

Q. In what sort of a package was the money put?

A. An ordinary package.

Q. Was it wrapped up in any wrapper?

A. Yes; wrapped up.

Q. Do you mean that there was but one bundle made of all the money that was represented by bills?

A. No; I said that each man made up his own money in that way in one large package.

BY MR. GOODRICH : Q. Each bundle separate ?

A. Each one separate, and then when Mr. Hoff took it he put it in the cash box and he put it all on top of each other and made one package of it.

BY MR. PARSONS : Q. Does that mean that there were at the time as many tickets as there were clerks employed ?

A. No, sir; I should judge about five or six tickets. Each man would make up his own money after he got through the day's work.

Q. Accompanied by a ticket, wasn't the amount ?

A. Yes, sir.

Q. And that was put up with a wrapper ?

A. Yes, sir.

Q. Now, did you ever see, and, if so, tell the gentlemen of the legislature what you did see in the way of arranging these tickets with reference to amounts, either before they went into Mr. Hoff's possession or afterwards ?

A. Why, each man would arrange his own money, whatever he had left and he would make it up in a package and strap it and mark it and turn that over to Mr. Hoff.

Q. Suppose that the amount were three thousand and odd dollars, would he not separate it into packages of \$1000 each ?

A. No, sir; he would tie it right up in one package.

Q. Did they invariably use tickets ?

A. I don't know what the others did ; that is what I generally did.

Q. Did you have a supervisory duty, or were your duties the same as the other cashiers ?

A. The same as the others ; yes, sir.

BY MR. GOODRICH : Q. Mr. Mitchell, did you not see a statement in the Standard of last year that you have made packages of a thousand dollars each to be sent to Engeman and Battersby ?

A. No, sir.

Q. I put you carefully upon your oath and I ask you the question whether you were not instructed by some one

in the association to make up a package of a thousand dollars for Battersby?

A. No, sir.

Q. I ask you the same question as to Mr. Engeman: whether you were not instructed by some one in the association or some one in that room to make up a package or packages of a thousand dollars for Engeman?

A. No, sir; as I said before, the tickets that were made up were turned over to Mr. Hoff.

Q. I want direct answers from you, Mr. Mitchell. Will you swear positively that you never made up a thousand dollar package in that room?

A. Yes, sir; I swear I never did.

Q. Did you ever make up a package of five hundred dollars?

A. No, sir.

Q. Did you make up no package of any specific amount under instructions?

A. No, sir, never.

Q. Under instructions of anybody?

A. Never.

Q. Have you not so stated?

A. I don't remember.

Q. Don't you remember that suddenly this system of gambling ceased at Brighton Beach for a few days before the close of the season?

A. Yes, they did stop two or three times last summer.

Q. Why did they stop?

A. Well, the Sheriff stopped them, I believe, or the District Attorney.

Q. Isn't it true that it was publicly announced that you had made up, or that someone had made up packages of a thousand dollars each for some one, and that upon this announcement being made gambling ceased at Brighton Beach for two or three days?

A. I don't remember hearing anything about it.

Q. Did you neither see nor hear it?

A. No, sir; I did not.

Q. Did you not tell Dr. Menninger substantially what I have now asked you?

A. No, sir.

Q. Did you see anyone else make up packages of a thousand dollars in that place?

A. No, sir.

Q. Will you swear that no other person made up packages of a thousand dollars each.

A. They might have made them; they might have had a thousand dollars left and made a package of it.

Q. Aside from the physical counting, will you swear that those specific packages of a thousand and five hundred dollars were not made?

A. No, sir; not while I was there. I wasn't in the cash room all the season; I was there I suppose three or four weeks and then I went upstairs on the grand stand.

Q. Did you hear any orders given to make up packages of that description?

A. No, sir, I never heard such an order.

Q. Have you stated to any person that you did hear such orders given?

Q. No, sir.

Q. Did you hear any instructions to make up packages of a thousand dollars for any purpose whatever?

Q. No.

Q. Or packages of five hundred dollars.

A. No, sir.

Q. Did you hear the name of Mr. Battersby or Mr. Engeman mixed up with any of that money at any time?

A. I will swear in this way: I know that Mr. Hoff generally turned over the money to Mr. Battersby; I suppose he did, but I don't know that he did.

Q. Did you see him turn it over to Mr. Battersby?

A. No, sir.

Q. Why do you suppose so?

A. Because Mr. Hoff was manager for Mr. Engeman, I believe; I know the safe was in the office, and I know he used to wait there every evening and I suppose he took it off; I don't know that he did.

Q. Do you mean to convey the idea that this species of gambling, or any species of gambling, has not ceased when raided by the Sheriff?

A. That is the only time that I remember.

Q. How many times was that?

A. I think two or three times to my knowledge.

Q. During that season?

A. Yes, sir.

Q. When the Sheriff came down did gambling cease?

A. They stopped selling tickets, yes, sir.

Q. Who gave the orders to stop selling these membership tickets?

A. Well, on the first occasion no one gave the order to stop; we saw them coming, and we got out.

Q. So the very presence of the Sheriff and the peace officers stopped gambling at Brighton Beach race track, did it?

A. Yes, sir.

Q. And it would always stop it, wouldn't it?

A. I don't know whether it would or not.

Q. It always did, didn't it?

A. It did that time, I know.

Q. Do you remember who gave the orders to start again?

A. No, sir; I don't remember.

Q. Did it start again the same day?

A. No; I don't think it did.

Q. Did the Sheriff remain there all during the races?

A. I don't know; I didn't follow his movements at all.

Q. And was there a second occasion when the Sheriff or any other police or peace officer came there when this system was stopped?

A. No, sir; I don't remember any other occasion; I know they stopped, but for what reason I never ascertained.

Q. It stopped on more than the first occasion you spoke of?

A. Yes, sir.

Q. And that was the height of the racing and membership ticket selling?

A. Yes, sir.

Q. And it stopped by the simple fact of the Sheriff and the peace officers attending?

A. They were selling pools the first time they stopped; and they resumed with the membership tickets.

Q. Were the paraphernalia of pool selling in open sight?

A. No; I don't think they were when the Sheriff arrived there.

Q. Well, before he arrived they were in plain open sight, were they not?

A. Yes, sir.

Q. How many of these registering machines were there in sight before the Sheriff came down?

A. I think there were eight.

Q. Eight?

A. Yes, sir.

Q. How were they gotten down out of sight?

A. Closed; covered.

Q. Covered with what?

A. A sort of framework, I believe.

Q. Was the frame visible?

A. Yes, sir.

Q. After they were closed?

A. Yes, sir.

Q. What kind of a frame was it?

A. A wooden frame.

Q. Did the frame appear as a part of the building in which they were situated?

A. It was just outside; yes, sir.

Q. So that to the ordinary observer it wouldn't be indicated that there was any registering machine under the cover?

A. No, sir.

Q. How were these covers put up when the Sheriff was likely to come down?

A. I don't know; I didn't see them put up.

Q. What was the size of these machines?

A. I should judge about 5 by 3; not as much as that; about 3 by 2, I think.

Q. The old-fashioned register, was it?

A. I don't know what it was.

Q. What Sheriff were you speaking of?

A. Sheriff Farley.

Q. Was Sheriff Farley there in person?

A. I don't know; I didn't see him.

Q. Why do you say the Sheriff, then?

A. I was informed afterwards the Sheriff and his officers were there; I don't know, for I didn't see him, and I couldn't say that he was there.

Q. You didn't see that personally?

A. No, sir.

Q. You don't know whether the Sheriff himself was there, or his deputies?

A. No, sir.

Q. Or whether it was the *posse comitatus* that has been talked of?

A. No, sir.

Q. No paraphernalia was seized?

A. I don't remember any.

Q. You didn't hear that any was seized?

A. No, sir.

Q. And shortly after the covers were taken off—the next day, perhaps—and the business resumed?

A. No, I don't think they resumed business for more than a week after. I think it was about a week elapsed before they resumed.

Q. How many were there, in a week, of races run?

A. Three days a week, generally; and sometimes four.

Q. So that there were three racing days in one week when the presence of the Sheriff at a previous race stopped pool selling and gambling?

A. Yes, sir.

Q. Did membership ticket-selling go on during those three days?

A. Previous to the Sheriff's visit?

Q. After the Sheriff's visit?

A. Yes, I think they resumed business in about a week after under the new system.

Q. And during that week there was no gambling of any kind?

A. No, sir.

Q. Do you remember the day when the Sheriff's officers came down first ?

A. No, sir ; I think it was in the early part of the spring.

Q. Were you there during the whole season ?

A. Pretty much the whole season ; yes, sir.

Q. How did you first come to hear of the Sheriff's presence ?

A. I was inside and somebody said the Sheriff was coming, and I got out.

Q. Who said it ?

A. I don't remember who said it ; somebody passed that remark.

Q. State the whole occurrence when you heard the Sheriff was coming ?

A. They were getting ready for business when somebody said the sheriff was coming, and we got out of the cash-room.

Q. How did you get out ; through the door or windows ?

A. Through the doors.

Q. You went with some speed ?

A. No, I didn't particularly ; some did, but I didn't.

Q. You had the consciousness of an upright integrity ?

A. Probably that was it.

Q. Go on and tell the whole story about the Sheriff coming.

A. I don't remember it ; I didn't notice particularly, but somebody said the Sheriff was coming.

Q. Was there any money in the cash-room ?

A. No, sir.

Q. No money was coming in by that time ?

A. No, sir ; I think they hadn't commenced business : they were about commencing business for the day.

Q. Can you tell who it was that gave that order to clear ?

A. Nobody gave an order to clear.

Q. It was sufficient that the Sheriff was coming, was that so ?

A. Yes, sir.

Q. Was that part of the arrangement between you that when the officers came you should clear ?

A. No, sir.

Q. Did you have any book or books to keep the amount of money which you received during the races?

A. Yes, sir; we did have little books.

Q. Did you take those books with you when you left?

A. Yes; I had my own with name on it, and I put it in my pocket.

Q. How large a book?

A. It was a book that you asked me about; it was a small blank book.

Q. Did everybody else do the same?

A. I don't know.

Q. How many of them were there in that office at the time?

A. Probably seven or eight; I don't think the full force was there.

Q. Where did you go?

A. I walked out into the crowd.

Q. And did all the others do the same?

A. I think they did.

Q. So that your intention was that the Sheriff could not find you in connection with the betting?

A. That was my idea, yes, sir.

BY MR. GREENE: Q. Where did you live during last summer?

A. In Clifton Place.

Q. You didn't live in the City of Brooklyn?

A. Oh, yes, sir.

Q. Clifton Place is in the City of Brooklyn?

A. Yes, sir.

Q. You didn't hold any official position here, did you?

A. No, sir.

Q. You were a clerk or bookkeeper for Dr. Menninger?

A. No; I was clerk for Dr. Menninger; I was his private clerk, and I didn't hold any official position.

Q. Did he hold an official position?

A. Yes, sir.

Q. What was that?

A. Coroner of Kings County.

John Mitchell, Jr.

Q. To what political organization, if any, do you belong ?

A. I belong to the republican organization.

Q. And Dr. Menninger ?

A. He does also, I believe.

Q. You didn't go down there at the employ of John Y. McKane, did you—at the instigation of John Y. McKane ?

A. No, sir.

Adjourned to Monday, March 28, 1887, at 10 A. M.

COMMON COUNCIL CHAMBER,
BROOKLYN, N. Y.,
MARCH 28, 1887.

Met pursuant to adjournment, all the parties being present as stated heretofore.

The Chairman announced that the Committee was ready to proceed.

Isaac S. Catlin, recalled and further examined :

BY MR. PARSONS : Q. General Catlin, are you able now to inform the Committee whether there were persons under conviction for gambling at the expiration of your term of office, sentence against whom had not been moved by you ?

A. I have no such information, sir ; the only information I have is derived from a letter which I found from my office—from my first assistant, Mr. Backus, which is dated October 23, 1886, upon that subject, and with your permission I will read what information I obtained from that letter. I have had no opportunity to look over the records. This letter is dated October 23, 1886, another investigation at that time, of this same subject, being up. I have no other information, Mr. Parsons, than which I got from Mr. Backus, except that I might yet be looking for the records, and that I have been unable to do, because I haven't had an opportunity to look at them. On Saturday I had all I could attend to, and of course I couldn't do it yesterday, and this morning I haven't had an opportunity to do so : I have had no time.

Q. Have you done nothing since your examination closed on Saturday for the purpose of informing yourself upon the subjects that were then left open ?

A. Yes, sir : I then looked up the records, as I stated, that I had in my office from Mr. Backus, himself, who knows the facts of the trial of those cases, and he moved the sentences——

Q. General Catlin, you will oblige me greatly indeed if you will inform me first whether you found that there were persons awaiting sentence after conviction, under the circumstances stated, at the expiration of your term of office?

A. There were no such persons, as I am informed.

Q. Now is there anything in the letter of October, 23 1886, from Mr. Backus that you desire to read?

A. I do.

MR. PARSONS: Please do so then.

The witness then read a portion of the letter as follows: "After my time (July, 1881), one Stone was the first case tried for policy-gambling in the Court of Sessions. All the cases of that class were set for trial together. Stone was convicted on the testimony of Mr. Comstock and one of his men, and I immediately moved for sentence. Judge Moore said that he would wait until the other case were disposed of before sentencing Stone. All other case went off at that time under a promise to plead guilty if Stone was convicted, which promise they refused to keep. Some of these cases were removed to the City Court and afterwards a conviction had. I think they are mentioned on pages," etc. (I will omit that). "The first of these convicted in the City Court I cannot specify; but when the jury said guilty, I immediately moved for sentence, and Judge McCue, who presided, said he would wait and see what Judge Moore did with the Stone case."

THE WITNESS: I have some remarks here from Mr. Backus which perhaps it wouldn't be proper to read now if you are going to call him. They are remarks upon what ought to have been done. Now that is all the information, sir, I have upon that subject; all that I can obtain.

Q. Who, in the ordinary course of business in the District Attorney's office, moves for sentence?

A. I know in my terms that we never moved for dismissal of indictment or for nolleying, unless —

Q. I asked you who, in the ordinary course of business in the District Attorney's office, moved for sentence?

A. Well, the first or the second assistant.

Q. What I ask you is, who, according to the course of business of that office, moved for sentence?

A. Oh, moved for sentence. The gentleman who tried the case.

Q. Who tried the cases mentioned in Mr. Backus's letter?

A. Mr. Backus himself.

Q. Who, according to the course of business of your office, would renew the motion for sentence after it had been suspended under the circumstances stated by Mr. Backus?

A. Mr. Backus, invariably.

Q. Can you personally explain why that was not done?

A. I think Mr. Backus, in his remarks, says that he spoke to Judge Moore several times about it.

Q. My question, you perceive, General Catlin, is whether you personally can explain why that was not done?

A. No, sir; I cannot. I would like to say, Mr. Parsons, that my entire time almost, from nine o'clock until half past five, during the day was occupied in attending to the executive business of the office, and unless I was engaged in the trial of some important case, a murder case, or a case of some special importance, I was in my office attending to my duties; and my assistants who were able lawyers, and who had the confidence, not only of myself but of the people, did the work of trying the cases of misdemeanor or other cases of that kind.

Q. Can you make any further or better explanation than you did on Saturday of the dismissal of the cases which were dismissed in December, 1883?

A. No, sir; I don't see how I can; I positively and peremptorily instructed my assistants, Mr. Oakey and Mr. Bacon, that those cases should not be nolle, should not be dismissed, but that they should be turned over to Mr. Ridgway; and I can't undertake now to tell whether, by mistake or otherwise, those indictments got into the large pile of indictments that were intended to be dismissed, and were dismissed by mistake or otherwise. I haven't any knowledge on the subject. I only know, as I met Col. Oakey, Mr. Bacon and Mr. Backus, and inquired of them

if they knew anything about how it happened, and the said they did not. Mr. Oakey, I think, was the gentleman who moved dismissal of all those indictments just before the close of my term. For instance, there were nineteen on the 29th day of December, I notice; all those were policy indictments; there were thirty-one on the 31st of December. Mr. Oakey, I believe, concedes that he made the motion to dismiss, when it appears by the records that those cases were dismissed. And the only difference between those cases, as I understand the record shows, is that in the other cases that I had instructed should be dismissed there was a note or a little history endorsed upon the indictment giving the reasons why they should be dismissed, and upon these indictments there was no such indication.

Q. The omission of that note, then, called special attention to these indictments as indictments which were not to be dismissed; did it not?

A. After I heard that there was no note upon these indictments, I considered it very strange that they should have been dismissed.

Q. And have you ever heard any satisfactory explanation of that occurrence?

A. No, sir; I have heard speculations on the subject.

Q. From whom?

A. From Col. Oakey and Mr. Backus, and those that have made myself, that there were large piles of indictments, and that these indictments might by mistake have gotten into those piles in the hurry of the transfer of the papers and documents and books over to Mr. Ridway; in other words, they were together; that is, in the immediate vicinity of each other, and they might have been by mistake placed into the piles that were dismissed; I can only make that explanation, or else charge absolute malfeasance upon some one, and which one I don't know.

Q. Was the business of your office conducted in the way that this would be applicable to one occasion, or could it be made to explain the same occurrence happening at different dates so near each other, and especially with reference to offences under the gambling statute?

A. No, sir; that is a circumstance that I say also excited my suspicion that some person had intentionally placed these indictments into the large packages, although it is a very serious charge to entertain, or even a serious suspicion to entertain, and I can hardly believe that any officer or clerk in my office, who was with me for six years up with that date, would do such a thing; I am loth to believe it yet.

Q. General Catlin, will you oblige me by looking at the paper, which I now hand to you, and say whether you recognize that as a copy of the proclamation of Gov. Cornell, about which I asked you on Saturday?

A. Well, I don't remember the document; but I have no doubt about it; yes, sir, I remember that was substantially it.

MR. PARSONS: I think it is important that this should form a part of the record.

THE WITNESS: Yes, sir.

MR. PARSONS: And I will ask to have it inserted at this place.

THE WITNESS: Did Gov. Cornell call the attention of the District Attorneys to the violation of the lottery laws?

BY MR. PARSONS: Q. And did this proclamation reach you in the ordinary course?

A. Yes, sir. Well, that I ever received that copy directly from Gov. Cornell, I doubt, because I haven't any recollection about it.

Q. I wish that you would recall whether you did not receive a copy from the Governor?

A. Well, the probabilities are, if such a proclamation was issued generally to the District Attorney that I did. I will concede that I received one officially; I am willing to concede that I did, although I have no recollection that I did.

(The paper is read by Mr. Parsons. The following is a copy):

PROCLAMATION BY THE GOVERNOR
FORBIDDING LOTTERIES.

Whereas, The Constitution of this State, and statutes passed in pursuance thereof, prohibit any lottery or sale of lottery tickets within the State;

And, whereas, It is thereby unlawful and declared to be a misdemeanor for any person or persons to conduct a lottery or policy game, by whatsoever name called, or in whatever manner devised, either as principal, agent or otherwise : or to do any of the things that are or may be done in setting up or conducting a lottery or policy game

And, whereas, It is unlawful for any person to keep a room, building, tenement or other place, or knowingly to permit the same to be used or occupied, or for any owner, superintendent or agent of any room, building, tenement or other place, to rent the same to be used or occupied for gambling, or selling, or vending lottery policies, or a writing, card, paper or document in numbers of public or private lottery.

And, whereas, It is unlawful for any person or persons to make, advertise or publish any lottery or drawing thereof or for any person or persons owning or conducting a newspaper or other publication issued in this State, to give notice of or advertise therein the sale of any lottery ticket or the drawing of any lottery, located either within or without the State ;

Now, therefore, It having come to my knowledge that the Constitution, and the laws passed in pursuance thereof, have been, and are now being violated in respect to the matters and things hereinbefore mentioned, as against the dignity and government of the State, proclamation is hereby made, warning all persons that are now or may hereafter be in any manner engaged therein, as to the matters and things specified or relating to the same, to desist therefrom ; and all District Attorneys, and other officers charged with duties pertaining to the suppression of such illegal acts, and the punishment of those offenders are hereby directed and ordered to seek out, prosecute and

furnish, according to law, every person who is found or may hereafter be found in any manner violating the laws relating to lotteries.

Done at the Capitol, in the City of Albany, this tenth day of May, in the year of our Lord one thousand eight hundred and eighty-one.

ALONZO B. CORNELL.

By the Governor :

HENRY E. ABELL,
Private Secretary.

Endorsed : State of New York, Office of the Secretary of State, Anson S. Wood, Deputy Secretary of State. Filed May 10th, 1881.

BY MR. PARSONS : Q. Do you observe, General Catlin, that this proclamation is not only addressed to persons engaged in the commission of offences under the gambling statute, but also to district attorneys ?

A. Oh, yes, sir.

Q. Can you recall anything to have been done by you, while District Attorney, following or at any time subsequent to that proclamation in addition to that which you have now testified ?

A. What is the date, Mr. Parsons ?

Q. May 10, 1881.

A. After looking over my papers I have in my possession, Mr. Parsons, a copy, which is in the handwriting of my then chief clerk, of a letter that I sent to General Jourdan, which bears directly upon that proclamation. I have no doubt that it is the result of that proclamation.

Q. What is the date of the letter to General Jourdan ?

A. May 14, 1881.

MR. PARSONS : I think it appropriate for that to form part of the record.

Q. Will you read it.

A. I accidentally came across it this morning.

The witness then read the letter as follows :

"GENERAL: Your favor of this morning is received, which accept my thanks. Mr. Taylor, my assistant clerk reports to me that you asked him, when at your office yesterday, 'if we did not have quite a number of cases violations of the Lottery laws in this office now.' I take the question put to him as an intimation, perhaps, that your opinion there were cases in the office where convictions could be had that had not been brought to trial. My assistant, who had charge of the trial of these cases"—

THE WITNESS: And that assistant was then Mr. Wernberg, before Mr. Backus was appointed.

(The witness continues reading as follows):

"My assistant, who has charge of the trial of these cases informs me, and has hitherto repeatedly informed me, that there was no sufficient evidence to warrant the presentation of these cases before the Courts for trial. I propose to overhaul all these cases, and if you have any information direct or indirect, positive or hearsay that there is sufficient evidence in any case to place an indicted lottery man on trial, or that there has been any laxity on the part of this office in presenting these cases, or any of them, for trial, I will be deeply obliged to you to communicate it to me, either officially or confidentially, and I will take prompt action in the matter. I have heard hints and intimations that both among the police officers and among my own subordinates there was special friendliness to lottery men. I have been unable thus far to obtain any facts upon which to act, so far as my office is concerned, or to cast a shadow upon any particular person. I have thought, perhaps, it might be well to have a thorough examination of the state of the lottery business by the Grand Jury, during which they may crop out who, if any one, is working either directly or indirectly in the interests of these robbers of the people. If there is "anything rotten in Denmark," or rather Brooklyn, so far as my department is concerned, I desire to apply a disinfectant, or, if necessary, the knife, to the diseased part.

“ What do you think of the proposition for an examination before the Grand Jury.”

Very respectfully yours,

“ ISAAC S. CATLIN,

“ District Attorney.”

To

General JAMES JOURDAN,
Commissioner.

Q. Was any knife applied or any disinfectant administered as the result of that communication to General Jourdan ?

A. Well, about the middle, I think, of May, or thereabouts, I think Mr. Comstock, on, I am inclined to think, my request, came to my office ; and yet this is merely the faintest recollection—

Q. I have no question about Mr. Comstock's activity, but what I want to find out is about your activity as the result of that letter ?

THE WITNESS : Those remarks are unnecessary, Mr. Parsons.

MR. PARSONS : No, they are not unnecessary, General Catlin ?

THE WITNESS : Yes, they are ; because, I must insist that three, four or five years having passed over since that occasion, I can't recall definitely what I did. Mr. Comstock, I think came to my office, and he proceeded to get indictments against these lottery men, right from that time, May 1881, down to sometime during the year, 1883, I presume ; I don't know ; yes, I think there were some indictments obtained in 1883.

Q. Can you remember the names of any persons who were indicted there through the instrumentality of Mr. Comstock, or otherwise, for offences under the gaming statute ?

A. No, sir ; I can't remember a single name. You read some names, Mangen and Smith, and three or four names yesterday that were tried, I believe—I mean Saturday. I I don't remember any names.

Q. Does my mention of these names refresh your recollection ; Abraham De La Motte and Henry De La Motte ?

A. Yes ; I remember those men.

Q. Were those men indicted ?

A. I think they were.

Q. Did the District Attorney prosecute them ?

A. I can't tell you.

Q. Was anything done upon the indictments obtained against those persons ?

A. I don't remember.

Q. Were the indictments against those persons prepared in your office ?

A. Prepared by whoever went before the Grand Jury with the witnesses ; yes, sir. I don't know whether Mr. Comstock himself had the blanks and had those indictments in his pocket, the blank forms. The chances are that he did.

Q. I would a little rather have your recollection than what may the chances have been ?

A. Because I don't think I had anything to do with Mr. Parsons.

Q. Can you explain, General Catlin, what became of the indictments against the De La Mottes.

A. No, sir, I cannot ; not at this date.

Q. Were not those indictments subsequently dismissed through the action of you or your subordinates ?

A. I don't remember whether they were among those indictments or not, Mr. Parsons.

Q. I ask you whether you have any recollection of these names as persons who were indicted succeeding your letter to General Jourdan ; Theodore Fuller, alias Carl Fuller, John L. Walker, John Funk, Michael Carney and John Mangen ?

A. I recollect Mangen's name very well. I don't remember any of the others.

Q. What is your recollection as to whether the De La Mottes were subsequently indicted for second offenses, or for subsequent offenses ?

A. Only from hearsay recently, sir, that they were indicted.

Q. You mean re-indicted for the same offense ?

A. No, sir ; that they were indicted for a subsequent offense.

Q. When did you learn that ?

A. I have learned it since this investigation was going on.

Q. From whom ?

A. I don't remember, sir.

Q. Who were the De La Mottes ?

A. I don't know.

Q. Of course when I ask you a question of that kind you will understand that I ask for their public reputation ?

A. I don't know anything about them ; I never saw them.

Q. Were they not notorious policy sellers ?

A. I do not know that.

Q. What was the offence for which they were indicted on the first occasion ?

A. Pool selling, I suppose.

Q. And on the second occasion ?

A. That same offence, as far as I know.

Q. Does the peculiarity of the names of those persons lead you to recollect their cases ?

A. No, sir, not especially. Only the fact that they were indicted for violating the lottery laws.

Q. I understand you to have stated that they were twice indicted ?

A. I told you that I remember that they were once indicted, and since this investigation has been going on, from some source, I understand that there were men of that name again indicted for this same offence.

Q. Were any indictments obtained against either of those persons at the end of your term of office ?

A. I do not know. I don't know anything more about that case than I did of the cases of assault and battery that were dismissed by the dozen, and cases against the excise law.

Q. Assuming that there were not such cases pending at the expiration of your term of office ; can you explain that occurrence ?

A. What occurrence ?

Q. That in some way or other these persons that were twice indicted were not under indictment at the expiration of your term of office ?

A. I didn't know that that was true. I can't explain if it be true.

Q. I think you stated that you could not explain what became of the indictments against Fuller, Walker, Fu and Carney and Mangen ?

A. I don't remember any of those names except Mang

Q. What became of the indictment against him ?

A. I don't know.

Q. What became of the indictment against Mangen ?

A. I say I do not know.

Q. Have you ever heard the name Andrew McClellan associated with gambling ?

A. Famously, sir ; yes, sir.

Q. Who was he ?

A. He was a gentleman who lived in Brooklyn.

Q. What is his relation to gambling ?

A. I only know what I have heard.

Q. That is what I wish to ascertain ?

A. I understand that he has had some relations with policy selling.

Q. Extensively ?

A. Rather extensively, I believe.

Q. When did you first associate him with policy selling on an extensive scale ?

A. I don't remember. It was, I think, when Mr. Cresswell took hold of the matter.

Q. I wish to ascertain the date as well as I can ?

A. Well, it might have been and I think it was probably in May, 1881, or thereabouts.

Q. At that time had McClellan been convicted on earlier occasion ?

A. Not under my administration.

Q. What I wish to ascertain is whether he was a person convicted at that time for gambling ?

A. I only know him by reputation, and I understand that was.

Q. Have you ever seen McClellan?

A. Oh, yes, sir.

Q. Where have you seen him?

A. In the streets.

Q. How did you become acquainted with him?

A. I have have forgotten.

Q. How long have you been acquainted with him?

A. Since during 1875 or 1876, along there.

Q. Was that before you first became District Attorney?

A. Oh, yes.

Q. Cannot you remember in what association you became acquainted with him?

A. No, sir; I have seen Mr. McClellan ever since he came to Brooklyn.

Q. Where were his headquarters when you first became acquainted with him?

A. I don't remember that he ever had any headquarters.

Q. In what other places did you ever see him?

A. I never saw him in any place except my office?

Q. What was he doing there?

A. I don't know.

Q. How often have you seen him in your office?

A. Once or twice, perhaps.

Q. When?

A. I couldn't tell you; possibly he was in there to give bail for these various parties who were indicted.

Q. When first did you see him in your office to give bail for parties indicted?

A. I don't know that I ever did. I may have seen him in my outer office, where every other public citizen has a right to come. He never was in my private office in his life, and I never had three minutes conversation with him in my life. I never was associated with him in any way, shape or manner.

Q. Have you ever known or heard of McClellan being connected with any other business than that of policy selling?

A. I never have inquired. I don't know anything about it.

Q. I wish to ascertain, General Catlin, whether his pub-

lic reputation since you have become acquainted with him, has associated his name with any other occupation than that of being extensively engaged in policy selling?

A. That is all I have heard about him.

Q. Now what did you ever personally do to prevent this extensive business in which he was engaged?

A. I had everybody indicted, and, I think, him among the rest, and did all that I could to prosecute these policy holders.

Q. Do you really mean to say that you did all that you could to prosecute him?

A. Oh, not him especially.

Q. Don't you see I am asking you about him especially? I want to find out what, if anything, you ever did to bring him to justice?

A. Mr. Parsons, we might just as well understand each other now as to go any further in this examination. When Mr. Wernberg left my office I had a conversation with Mr. Backus on the subject of this policy selling, and I turned it over to him with instructions that those men should be indicted and tried. Now, I did not follow Mr. Backus every day in the year, nor every hour in the day, and I supposed he did his duty; and I think that when you get him upon the stand you will find that he did his duty, and can explain what I cannot explain. And it isn't fair to ask me at this date what I did four or five or six years ago.

Q. Do you mean, General Catlin, that you did nothing in the way of prosecuting McClellan except to give instructions to Mr. Backus? If you do, I will suspend any further inquiry until we put Mr. Backus upon the stand. If I wish to give you the broadest opportunity here now to state anything that was done by you to bring to justice that man that you understood to be extensively engaged in carrying on a business which was in violation of law, and that made him a criminal?

A. Well, I will tell you exactly what I remember that I did about McClellan. When these other parties were being pressed for trial, I said to Mr. Backus, and I think to Mr. C. C. Stock, "Why don't you press the trial of McClellan?" I thi

I said that repeatedly to Mr. Comstock ; and I can't tell you what his answer was, but I remember of saying repeatedly to both Mr. Backus and to Mr. Comstock, too, "Why don't you press this man, who you say is the leader of policy gambling in Brooklyn, to trial, instead of these poor little fellows who have been in the business only a short time?" That is all I remember about it.

THE WITNESS : I don't like, in every question you ask me, a suspicion lurking that I am guilty of some heinous offence, Mr. Parsons ; I don't think it is fair. I want to answer you fairly and squarely, if it is asked fairly and squarely, without an implication that I am guilty of some offence.

MR. PARSONS : Well, Gen. Catlin, I am sincerely desirous of ascertaining what was done or what was not done by you, personally, you being the District Attorney and at the head of your office, in connection with this McClellan case——

THE WITNESS : But, Mr. Parsons——

MR. PARSONS : Now, one moment. I don't propose that any complaint on your part with my mode of asking you questions shall stand in the way of your testifying fully upon the subject ; and, therefore, I wish, in as respectful a manner as I am capable of, to ask you now to state all that was done by you, if anything, either in the way of personal action or of giving directions to others, towards bringing to justice this notorious criminal.

THE WITNESS : I have stated all that I have done. And I want to say this—if you will allow me, Mr. Parsons.

MR. PARSONS : Most certainly.

THE WITNESS : That if the parties who were pressing this investigation upon this subject, and their witness, had been called, so that I, as District Attorney, or my assistants or witnesses could understand what the accusations were, or what it was that was being investigated in advance, I could then have prepared myself for the witness-stand to testify intelligently before this Committee. But now you

ask me questions, the subjects of which are three or years of age and more, and I can't undertake to tell what I did, and I won't undertake to tell you what I because I couldn't if I tried. I mean to be fair and honest about every answer I give.

Q. Do you remember that in June, 1882, the person whom you have referred as William Stone was brought to trial and that his trial resulted in a conviction?

A. Only from what I read in Mr. Backus' letter to this morning, and I recollect generally that he was, but what particular time he was brought to trial I do not remember, Mr. Parsons.

Q. Does not Mr. Backus' letter to you give the date

A. I have forgotten whether it does or not. I don't hardly think it does. (The witness examines the letter.) No, sir; it merely states that "after my time, July, (that was when he was appointed), "one Stone was first case tried for policy gambling," showing that I was going for him as fast as my assistant could get to him.

Q. Well, having been tried, a very little going for him would lead to his punishment, if he were convicted, wouldn't it not?

A. Yes, sir.

Q. He was convicted, was he not?

A. Yes, sir.

Q. Now, what was done with him after his conviction?

A. His sentence was moved.

Q. And then?

A. I don't know.

Q. Was he ever punished?

A. I think not.

Q. Did you ever do anything to inflict punishment upon him?

A. I don't know what I did do. I don't know of any conversation or talks I may have had with Judge Moor or Mr. Backus on the subject; that is where my memory leaves me.

Q. Was Stone a notorious offender?

A. I don't know as I ever heard of him before; I don't

know the party. I had three hundred cases to try during the year sometimes.

Q. You seem to remember the case of Mangen?

A. Yes.

Q. It is said that he was convicted on or about June 7, 1882. Does that correspond with your recollection?

A. I haven't any recollection about the date, sir.

Q. Have you any recollection about the length of the interval between his conviction and the expiration of your term of office?

A. I have not now.

Q. Was it a short time, or a considerable time, as the matter rests now in your memory?

A. I don't remember that Mangen was tried at all.

Q. Who exercised the discretion of suffering to go on bail persons convicted of crime, while you were District Attorney, after conviction?

A. I haven't any knowledge that there was such; no recollection now that that ever occurred, sir.

Q. Well, if it shall appear that that did occur in the cases of John Mangen, John L. Walker, Charles W. Smith and Carl Fuller, can you explain the circumstance?

A. I cannot.

Q. Is the name Carl Fuller familiar to you?

A. I said not, sir.

Q. Without asking you with reference to specific cases, will you state generally who, while you were District Attorney, exercised the discretion of allowing convicted criminals to go on bail?

A. I have no recollection of any such person going on bail, except when the regular appeal was taken and they were brought up on *habeas corpus* before the Supreme Court and bailed in the regular way. That, I think, was done in several instances, but I don't remember the cases.

Q. I wish to ask you a little more particularly about your acquaintance with the persons whose names have been associated with gambling on Coney Island, and I first inquire in reference to George H. Engeman. When did you first become acquainted with him?

Q. I never had any acquaintance with George H. Engeman specially. I have met him at the hotel of his brother William Engeman, years ago, when I first came to Brooklyn, as far back as 1869 right along down, but I never had any special acquaintance with Mr. George H. Engeman.

Q. Have you ever seen him except at his brother's hotel?

A. I may possibly have seen George H. Engeman on the race track in the first year of its existence.

Q. What year was that?

A. That, I think, was in 1878, sir, although I won't be certain.

Q. Does that mean the Brighton Beach track?

A. The Brighton Beach race track.

Q. Were you in the habit of attending the races there?

A. In the first year I went quite a number of times.

Q. How about later years?

A. I never went on the race track, except in one instance on the Coney Island track during the season of the race of great public interest that was had between Onondaga and Sachem, the two great colts, where I saw all the district attorneys and judges in the country, nearly, or a large number of them.

Q. I suppose that is an answer drawn somewhat with a long bow, is it not?

A. Perhaps so, Mr. Parsons.

Q. Now, let us see. To be serious—

A. Yes, sir; I was serious when I stated what I saw, Mr. Parsons.

Q. What! when you stated that you saw nearly all the judges and district attorneys in the country at the race between Onondaga and Sachem?

A. Of the two cities, yes; I say that most emphatically.

Q. Did you have any reason for staying away from the race tracks while you were District Attorney?

A. Yes, sir.

Q. What was it?

A. Because I didn't want to be in any way hampered.

the trial of any offence that should be alleged to have been committed on the race track.

Q. What sort of offence?

A. Pool selling.

Q. Gambling, in other words?

A. Well, call it what you please. Gambling, I suppose, technically.

Q. Was there either of the Engeman's with whom you were on terms of closer or more intimate acquaintance than with George?

A. Yes, sir.

Q. Which one?

A. William; I knew William better.

Q. The father, or the son?

A. The father. I didn't know that there was a son by the name of William.

Q. It has been said in some period of the inquiry that some gentleman of that name is dead; does that mean the father, William?

A. Yes, sir; he is the man that I know best. He was the owner, as I understood, of the hotel.

Q. Did you ever have a business transaction of any kind with either of those gentlemen?

A. No; never in my life.

Q. I ask you in the broadest mode of using the question?

A. Except what I told you the other day.

Q. I don't happen to recall what that was?

A. A young gentleman came to me and asked me if I would accept a retainer from Mr. William Engeman and appear for him in a matter in relation to the Concourse, where something had happened in front of his race track or the hotel.

Q. And, as I understand, that did not result in any transaction between you and Mr. Engeman?

A. No, sir; it did not, most emphatically.

Q. What I wish to ascertain is, whether there was ever any actual transaction between you and any of the Engemans?

A. Never in my life; no, sir.

Q. Is the same true of Paul Bauer ?

A. Yes, sir ; distinctly.

Q. As I understand you, there never was a pecunia transaction of any kind between you and Paul Bauer ?

A. Never, to my recollection.

Q. Does that mean you don't recollect ?

A. That means that if Paul Bauer was in the city, might come in and borrow ten dollars of me ; I say might have, but I don't remember ever having any pecu ary transactions with him of any kind. I won't swe that he may not have done that. I may have met hi some time and borrowed ten dollars of him, at Con Island.

Q. Where is Paul Bauer ; do you know ?

A. I don't, except he be at his hotel.

Q. I ask you the same question in reference to B ttersby ?

A. Never, sir ; I never had any sort of pecuniary tra action with him.

Q. Or business transaction of any kind ?

A. Or business transaction of any kind that I have a recollection of at the present time ; I never have, to i memory.

Q. What do you mean by saying that you have no rec lection at the present time ?

A. I haven't any recollection at all of ever having b any such transaction. In other words, I never did ha any such transaction. There might be a possibility of i having had some transaction with Mr. Battersby, bu haven't the slightest recollection of any such transacti I don't remember to have seen Mr. Battersby from the y that the races first opened until I ceased to be District . torney. For there were two years, 1882 and 1883, t after coming from Europe I went to Islip, at the Pavil Hotel, and remained there until very late in the fall w my family, and never visited Coney Island on any occas in 1882, and never more than once or twice in 1883.

Q. Have you never seen Battersby except at Coney land ?

A. Not until, I think, last fall.

Q. Where did you see him then ?

A. I saw him on Fulton street, on Saturday night.

Q. Have you never seen him away from Coney Island, except in the street ?

A. I have no recollection of seeing him, except probably he did come into the District Attorney's office.

Q. Where did you form his acquaintance, General Catlin ?

A. I can't tell you, except as I told you the other day, and that is where I wish the newspapers in their reports would correct themselves. Mr. Battersby had a brother, a sergeant of the police, who was an active member of Post Mansfield, of the Grand Army of the Republic, and I knew him very intimately, because he lived then in the Eastern District, and I attended this Post where he was a member, and used to see him frequently at Police Headquarters. My best recollection is that it was while Mr. Battersby was a school teacher, whether at Gravesend or elsewhere on the Island, I do not remember ; I mean in King's County ; I was introduced to him by his brother ; and yet I won't say that I was so introduced. My recollection is that way. I have no absolute and positive recollection of the first occasion when I did meet Mr. Battersby. He is a man nearly seven feet high, and if you ever saw him once you certainly would never forget him. You can see him in a crowd above everybody else.

Q. Then your memory about him ought to be reasonably distinct, should it not ?

A. I don't remember to have met him for a great while except Saturday night before the late election.

Q. Was he a person who interested himself in the election ?

A. I tried to persuade him to vote for General Tracy, but he said he was going to vote for Mr. Ridgway, and I couldn't dissuade him.

Q. Why did you go to him ?

A. I just met him in the street, accidentally, and he stopped and spoke to me.

Q. At that time had not your acquaintance with Mr.

Battersby become somewhat closer than the casual acquaintance you described at the beginning?

A. I will tell you this, that as soon as I went out of District Attorney's office, General Avery, my friend, Mr. Page, the chief editor of the Union, and other gentlemen of the city, I would drive down to the race track and we would go in and see the races, and in that way I met Mr. Battersby since—well, mainly this last fall. I don't think I went there in 1885 at all. I think in 1886 I did several times, and I went there with several parties and I met Mr. Battersby every time I went there, and he was quite hospitable and treated us very kindly. I think I went there once with Mr. McLean of the Citizen.

Q. You were here on Saturday when a gentleman by the name of Mitchell was examined, were you not?

A. Yes, sir.

Q. Did you hear him speak of somebody by the name of Hoff?

A. Yes, sir.

Q. Do you know that person?

A. No, sir.

Q. Did you never see him, to your recollection?

A. No, sir; I never see him to know him.

Q. Are there other persons than those about whom you have particularly enquired who have been associated with the Brighton Beach Course with whom you have had personal acquaintance?

A. Yes; one very intimate gentleman.

Q. What is his name?

A. Major Wheeler, who used to be city editor of Brooklyn Eagle; a gallant gentleman whom I have known who was my favorite cousin's classmate in college, whom I have known since 1861. He is the only gentleman that I was intimate with.

Q. What did he have to do with the Brighton Beach Course?

A. He was one of the judges, I believe.

Q. Was he interested pecuniarily in the management far as you understood?

A. He was not, sir; except in drawing a salary as

judge ; and that I don't know about ; he may have been interested ; I don't know anything about it.

Q. Where does Major Wheeler live now ?

A. I haven't seen or heard of Major Wheeler in some months. I can find out for you, Mr. Parsons.

Q. What was he doing when you last heard of him ?

A. I last saw him, I think, at the Brighton Beach Hotel, sir.

Q. What was he doing there ?

A. I think he boarded there last fall ; I went quite a number of times down to the Brighton Beach Hotel, for the first time in a long time.

Q. Do you remember the first name of Major Wheeler ?

A. Yes, I know it just as well as I know my own, but cannot recall it. He was one of General Hancock's most gallant subordinates.

Q. What I wish to ascertain now is, his initials or name ?

A. I understand it, but I want to give you his record too. I want you to know why I associated with him, and I am very proud to do it. I wish I could think of his name. Charles Wheeler ; I think it was C. C ; I know his first name was Charles.

By MR. SHEPARD: Q. Charles H., isn't it ?

A. Maybe Charles H ; I can't say. He was one of the judges of the Brighton Beach track.

By MR. PARSONS: I may as well ask you whether you have ever had any business transaction with him ?

A. I have not.

Q. I assume from what you say that he was not a gentleman with a long purse ?

A. No ; he was a poor devil like Stegman ; I mean to say financially, but he is a very cultivated man and a scholar.

By MR. GREENE: Q. Your second term of office began in 1881, and ended the first of January, 1884, I understand ?

A. Yes, sir.

Q. During that time will you give me the city govern-

ment of Brooklyn ; for instance, who was at the head the different departments, and their politics ?

A. From 1881 to 1883.

Q. 1881 to the first of January, 1884 ?

A. Mr. Low was Mayor.

Q. You were District Attorney ?

A. I was District Attorney.

Q. Who was Sheriff ?

A. Stegman was elected in 1881. His term began 1882. Mr. Reilly was sheriff in 1881 ; a democrat.

Q. Who was Police Commissioner ?

A. The Police Commissioner was General Jourdan, a publican.

Q. And who was Fire Commissioner ?

A. Colonel Partridge ; he was a mugwump.

Q. And the Building Department ?

A. Mr. Naylor or Taylor, of the eastern district.

Q. And the Health Department ?

A. Dr. Raymond, a republican.

Q. Of Charities and Correction ?

A. Mr. Reeve, I think. I don't know ; I can't say about that, Judge Greene.

Q. And Excise ?

A. Excise was a mingling of Republicans and so-called Democrats.

Q. Then the city government, in all its departments, was substantially under the control of one party ?

A. No, it was pre-eminently non-partisan.

Q. I know ; but they were elected by one party ?

A. Mr. Low could not have been elected exclusively one party, because there were about ten thousand major on the other side.

Q. He was the candidate of a party ?

A. Yes, sir.

Q. And voted for by the other party ?

A. Yes, sir. I think he was supported in the main the party.

Q. The appointments of the heads of these departments some of them, were made by him ?

A. Yes ; I am inclined to think all of them.

Q. And also the Civil Service Commission, during the latter part of his term ?

A. Yes, sir.

THE WITNESS : I desire to make a brief statement after you get through.

MR. PARSONS : You shall have the opportunity.

BY MR. GREENE : Q. Were there charges preferred against you as District Attorney during your term of office to the Governor ?

A. Well, there were charges presented against me by Mr. Comstock, which I learned of for the first time in reading Mr. Beecher's testimony.

Q. You never knew it otherwise than that ?

A. I never knew it ; I knew Mr. Comstock, by his own statement, had written to the Governor to prevent either my assistant, Mr. Backus, or myself from trying these pool cases which we were very anxious to try ; but I never knew there were charges for my removal until I saw it by the evidence of Mr. Beecher that he advised Mr. Comstock to do it.

Q. Mr. Beecher never came to you and told you he had part or lot in those charges ?

A. Mr. Beecher never in all his life came to me to ask any question, nor even wrote me in any way, shape, or manner.

Q. He never wrote you requesting you to discharge your duty, nor never called on you to communicate anything of that kind to you ?

A. No, sir, never.

Q. And you are not aware that he ever took any part in the formulation of any charges ?

A. No, sir, never ; and he swore he didn't, but that he examined them.

Q. And advised with Mr. Comstock ?

A. And advised with regard to them.

Q. That is the first you knew of the charges ?

A. That is the first I knew that formal charges for my removal were presented to Governor Cleveland.

Q. A copy was never served upon you ?

A. Never was served upon me.

Q. And you were never asked to defend ?

A. Governor Cleveland never sent me any charges, and never in any way communicated to me in the fact that charges had been preferred against me. They probably were relegated to the waste basket.

BY MR. BACON : Q. Were any of these heads of departments, under Mayor Low, active politicians ?

A. Well, General Jourdan has always assumed a great deal of responsibility in the leadership of republican politics, but not so much as he did in other days when what were known as the "Three Graces" presided over the political field.

Q. Were there others of them who were active politicians?

A. I think Colonel Partridge was not at all active, and if you will remind me who was the Fire Commissioner—

MR. GOODRICH : Mr. Poillon.

THE WITNESS : Poillon, also. They were gentlemen in business life, and were brought by Mr. Low to those positions, by reason, I think, of the fact that they were entirely free from any and entangling alliances on political subjects, although they were republicans and I have no doubt firm ones, until Mr. Cleveland ran for president, and then, I understand, that at least Col. Partridge voted for Mr. Cleveland.

BY MR. PARSONS : Q. Have you yet stated your own political affiliations ?

A. I have been a republican.

MR. GREENE : I wanted to ask him one question in that connection.

BY MR. GREENE : All these charges of Mr. Comstock were made against you in what year ?

A. In 1883, sir.

Q. 1883 ?

A. About the beginning of the last half.

Q. Were they published in the papers here ?

A. No, sir ; not at all, except in the Union.

Q. In the Union ?

A. Yes, sir.

Q. And the matter was known to the City of Brooklyn that these charges were made against you ?

A. Yes, sir.

Q. And you were subsequently nominated for Mayor of this City ?

A. Yes, sir.

Q. And by what party ?

A. By the Republican party.

Q. To which you have always been attached ?

A. Yes, sir.

BY MR. PARSONS : Q. Does the "always" extend down to now ?

A. Well, I have had some very serious misgivings about republican politics of late.

Q. Won't you answer my question whether the "always" extends down to now ?

A. Yes, sir ; I am a republican now.

Q. You call yourself a republican still ?

A. O, yes, sir ; I am a republican now.

Q. There is one other name associated, as I understand, with gambling on Coney Island, about which I would like to ask you a question, that of James E. Brown ; do you know him ?

A. I don't know him. I don't know him at all.

Q. Have you ever heard of him ?

A. I don't think I ever heard of him.

Q. Have you ever heard of the firm of James E. Brown & Co. ?

A. I never have.

Q. Or James E. Moore ?

A. Not to my knowledge.

Q. Did you ever hear of John Y. McKane ?

A. I have, sir.

Q. Have you personal acquaintance with him ?

A. I have.

Q. When did that acquaintance begin ?

A. I can't tell you.

Q. Was it prior to your becoming District Attorney ?

A. Long.

Q. During what part of your term of office as District Attorney was he at the head of the Police Department at Gravesend.

A. The first I ever had occasion to investigate it or know anything about it was in 1883, when these charges were beginning to be made by the Union. I have no doubt that he was Chief of Police before that, but I had no knowledge of it, sir, and have none now.

Q. Were you in the habit of seeing him during 1883?

A. I think I did not see him but once.

Q. When was that?

A. That was on the last day of my term, when he came in my office and respectfully and pleasantly urged me to dismiss an indictment on file against him.

Q. What for?

A. Well, for aiding and abetting in pool-selling.

Q. Did you do so?

A. Which I told him I could not under any circumstances do.

Q. General Catlin, are you quite confident of the accuracy of your recollection, that you did not see McKa during 1883, except on this occasion?

A. I have no recollection, Mr. Parsons, of it at all. I told you, I was abroad, and then when I returned I went to Islip, where I remained with my family, and I went down there every night and came up in the morning, and where we remained, I should say, all the time until the middle of October.

Q. Are you quite confident that you didn't see him before your departure for Europe?

A. Absolutely, I think; absolutely, I think.

MR. GOODRICH: Now, General, if you have any statement to make you may make it.

THE WITNESS: What I desire to say, Mr. Goodrich, is this, that the building of the hotels, those large hotels, that system of grand hotels at Coney Island, and the racetracks and the race tracks were contemporaneous enterprises; and the Brighton Beach Hotel, the Brighton Beach road and the Brighton Beach track were built about the same time and were looked upon as very great and important.

tant enterprises. The Manhattan Beach railroad and Manhattan Beach hotel and the Jockey Club race track were built about the same time. Indeed, all those hotels and those railroads and those race tracks were contemporaneous enterprises, and were looked upon and thought of as great enterprises. I remember of many articles in newspapers generally applauding them, indifferently ; and there never was a complaint against racing there.

I want to say, in the first place, that when those tracks first opened, the best people, except the people who never attended any amusement for conscientious reasons—the best people of the City of Brooklyn attended both of those tracks ; at both of those race tracks I have seen the very *elite* of the City of Brooklyn and of New York ; and I think that condition of things extended up to at least the latter part of 1882. During that entire time there was just one complaint—up to 1883, just one complaint against pool selling, and that was a complaint made against some pool seller, I think, on the Jockey Club race track ; and the lawyer who made it was a very reputable and excellent lawyer of this city, Mr. James Tighe. He presented the complaint—whether it was before Judge Walsh or not I have forgotten, but I think it was ; but, if not, it was before some magistrate at Coney Island ; and whether it was after the hearing, if there was one ; but, at any rate, after the complaint was made or affidavit was made which formed the complaint—immediately after that, in the evening of that same day or the next day, there was a howl of indignation that went up all over the county of Kings against this complainant attempting to interfere with the pleasures of the people of Brooklyn, and denouncing it in the editorial columns of, I think, every paper in Brooklyn then ; the Union then was under a different régime ; and I never heard a complaint from that time until the Union began this complaint in 1883, in the last part of the last year of my second term.

No preacher had ever preached against it up to that time, and never did up to last fall, to my recollection, in 1886. No steps were taken in any way, shape or manner by the moral element—the so-called moral element of the city of

Brooklyn, to put a stop this pool-selling business : and it wasn't until the Union, a dilapidated little newspaper that had a circulation of about three thousand at that time began this attack upon the race-track and upon me, that any complaints were made.

Well, I was very indignant, and while men are very apt not to do what people undertake to compel them to do, yet I did take hold of the matter, and I said to the reporter of the Union, "I will take hold of the matter, just as I take hold of any other when anybody comes to me with a complaint and anybody that will come to me with a complaint and with information, he can go with me before a magistrate or before the Grand Jury, and I will have the man that is complained against, indicted, and I will have him prosecuted."

And I think that notwithstanding the strain that had existed between Mr. Comstock's social relations and my own, since the trial of the Williams case, he will say that he never was forbidden to go before the Grand Jury, but that on the contrary, he had every opportunity to take his two men, which he said he had at Coney Island on purpose to get the necessary evidence to bring these people to trial—he will tell you, I think, if he tells the truth and is fair that he had every opportunity to take those two men before the Grand Jury—Mr. Oram, who is here, saw, and Mr. Britton, whom I do not know—I have seen him, but I don't recollect him ; they were there from the 30th day of May down to the day the races closed, as we understand ; and from the 30th day of May down to the 21st of September, no movement was asked by Mr. Comstock to be made before the Grand Jury or before the Court. We gave him full opportunity, and he took upon himself to furnish testimony against the Brighton Beach Racing Association ; and when I returned from Europe he met me, when, I think, Mr. Backus had gone away, and he said he wanted to take measures against those people down there, and I have forgotten whether I suggested that he would better send for Mr. Backus, or whether he suggested that I should send for Mr. Backus ; at any rate he wrote

for Mr. Backus, as I recollect, and Mr. Backus came right on and he can tell you what he did.

But in October, Mr. Comstock came into my office with Mr. Backus. Mr. Backus said to me, "Now, Mr. Comstock says that he hasn't confidence in General Catlin, and I want you and Mr. Comstock to have a talk with each other." I said, "I am very glad to do so;" and Mr. Comstock and I had a talk together, and I told him then and there, "Anything you wish us to do with the witnesses, so far as going before the Grand Juries is concerned, I will aid you; Mr. Backus will aid you;" and when he left he took me by the hand and shook it very warmly and looked me in the eye, and he said, "I have perfect confidence in you General Catlin."

Then the question was whether I should try the cases myself or whether Mr. Backus should try the cases; or, if he didn't want either of us to try the cases, we would get anybody for him that he wanted to try the cases.

It was after that that I told Mr. Backus that my reputation demanded that those cases should be tried before I left that office, and that my duty demands, as well as my reputation, that under no circumstances should we allow those cases to go by default over to my successor; but to try them by all means. And Mr. Backus promised me he would, and he undertook to do it, and he can tell you how he succeeded.

By MR. PARSONS: Q. Does that refer to the cases that were dismissed in this unaccountable way?

A. Oh, no, sir; they are not Coney Island cases.

Q. Policy cases?

A. And about those cases I don't undertake any responsibility; while I have testified absolutely to the truth as to what I ordered about those cases, I say this to this Committee, without any sort of hesitation, that if I had seen fit to take those cases into my own hands, looked them over, and made up my mind that they ought to be nolledd, and I had gone to the Court and made my motion, that was a matter of my business and not Mr. Comstock's or anybody's else; that I had a perfect right to do it unless I did it from some corrupt motive, which I assume is

not presumed here. If it is, I should like to have somebody produce their testimony. I had a perfect right, and I think every gentleman on the Committee, being a lawyer, and some of them having had experience, undoubtedly, in the District Attorney's office, and understanding that there were indictments running from 1881 to 1883, will agree with me. If I knew that those people had gone out of the business, and I saw fit to exercise my discretion in nollying those indictments, the Judge agreeing with me upon the reasons which I gave, why I had a perfect right to do it. But I did not do it, and I have told the reason why I did not do it; that I did not want to interfere with any indictments that Comstock had obtained in my office.

BY MR. GREENE: Q. It is quite a general thing, is it not, for an outgoing district attorney to gather together such indictments as he thinks may properly be dismissed, submit them to the Court and take the Court's judgment about it, and if the Court agrees with him, then to have them nolle prossed?

A. Yes, sir.

Q. And that is the usual course of district attorneys, is it not?

A. It is the usual course of district attorneys; the usual course, yes, sir.

BY MR. ARNOLD: Q. You were district attorney on term?

A. I was district attorney for two terms, sir.

Q. For six years?

A. Yes, sir.

Q. How many indictments were found a year; about how many?

A. I never had any estimate of the number of indictments I disposed of except the first year of my first term, and then I was a little anxious to ascertain who had tried the greatest number of cases, whether Mr. Britton, who was my very able predecessor, or whether myself. I found on actual count that I had disposed of over a hundred more indictments than my predecessor had in the last year of his term. There are eleven months that the Grand Jur

sits, and eleven months that the petit jury sits, and the mill is grinding continually, and I should say that thirty or forty indictments a month are found ; twenty-five or thirty indictments, anyway, would be a moderate estimate.

Q. Four or five hundred a year ?

A. I should say so, but I may be considerably beyond the number.

Q. And how many of these are for felonies, and how many for misdemeanors ?

A. Oh, a large proportion of them were in my term, before this new bill was passed relegating this jurisdiction in misdemeanors to the police magistrates who have now original jurisdiction ; a large proportion were misdemeanors and the petit jury were constantly trying cases every day during the sitting of the Court of Sessions.

Q. About what proportion of the indictments for misdemeanors were dismissed without trial, should you judge ?

A. I don't think I could tell, because the gentleman who went before the Grand Jury was Mr. Oakey, generally, and the dismissal of those indictments would be usually by Mr. Oakey, and I think probably he can tell you pretty generally about that.

Q. Well, have you now any recollection of any accidental or surreptitious dismissals, except these which have been referred to here in the gambling cases ?

A. No, sir ; I never have had anybody look over the indictments to see about it.

Q. As this investigation has progressed, my friend Judge Greene, especially, I see has developed some little anxiety to prevent it from lapsing into a partisan or one-sided inquiry, and I am very glad that he has ; you say you have been a Republican always ?

A. Yes, sir.

Q. And lately your opinions have undergone something of a change ?

A. I have criticised the Republican management very severely, sir.

Q. Has the making of this investigation or the order for this investigation given any color to your political opinions ?

A. Not the slightest.

MR. ARNOLD: I thought it hadn't

THE WITNESS: Not the slightest about the good faith of the appointment; I haven't any doubt about the Colonel Bacon in moving for this, and he was injudicious in his speech, and any doubt of his honesty and don't

MR. BACON: I will take care of that

BY MR. BACON: Q. How many in the last month of your term?

A. I don't know.

Q. What class of cases?

A. I don't know; it is a matter here, the clerk of the sessions, has told you in an hour by going to his record

Dr. Henry J. Menninger,
examined as a witness, testifies:

BY MR. GOODRICH: Q. You have been of this county?

A. Yes, sir.

Q. During how long have you been

A. For three years; the term ended last.

Q. Did you have in your office Mitchell?

A. Yes, sir.

Q. You saw him upon the stand

A. I did not.

Q. You heard that he was examined as the man who was in your office?

A. Yes, sir.

Q. Have you had any conversation with the committee's counsel in this matter until

A. I have not.

And you don't know, I take it, from what source counsel obtained information which resulted in the examination of Mr. Mitchell?

A. I do not.

Q. Do you remember any conversation with Mitchell in which he spoke of money being made up into packages at either of the race tracks at Coney Island?

A. I recollect Mr. Mitchell saying that there was one particular package of money put up every afternoon after the close of the cash.

Q. Give his language as nearly as you can?

A. That I cannot give, the language; but the inference that I drew from it was that that particular package was made up for a particular purpose. He mentioned the sum as being \$1000.

Q. I don't want to have you draw inferences any more than you can prevent?

A. I can't recollect the exact language.

Q. He spoke of a thousand x dollar package of money being made up every afternoon during what time?

A. After the races were closed.

Q. And covering how many days, or during what period of time?

A. That I don't know. He said, every afternoon at the races.

Q. He spoke of that as a daily occurrence?

• A. As a daily occurrence.

Q. Did he speak of it as so much money taken out of the proceeds of the pool selling or book-making?

A. I don't know what money it was. He was one of the assistant cashiers there, and had something to do with the counting of the money. I don't know what particular money this was taken from.

Q. How many times did you hear him refer to that subject?

A. I think on two occasions.

Q. Did he speak of it in the presence of other people besides yourself?

A. Well, there were other people in the office, but I am at a loss to understand how any of them could have heard

the conversation, because our desks were separated from the main office, and we were in the little private apartment that we had there. Unless some one was eavesdropping, I don't see how anyone found it out.

Q. You say he spoke of this on two occasions?

A. Yes, sir.

Q. How did he come to speak of it at all?

A. I had some doubts about Mr. Mitchell's working any such work in the afternoon. He only worked there in the afternoon. I spoke to him about gambling, and said he had nothing to do with the gambling part of that he was simply a bookkeeper and an accountant. I knew Mr. Mitchell to be an expert accountant, and I had no objection to his being an accountant there in the afternoon.

Q. His compensation was very small in your office?

A. His compensation was very small in my office; and at the time that the question of gambling was being agitated I talked with Mr. Mitchell about the truth of his position that in case the police made a descent how it would affect him and he told me he didn't think there would be any harm to the personnel of the office there; that some of the managers might be arrested, or some of them; and then he said by way of explanation why he didn't think there would be any harm, that there was a thousand dollar package handed to one of the managers every afternoon.

Q. Did he say what manager it was handed to?

A. I think he did, but I couldn't recollect now.

Q. Well give me a name, as near as you can remember?

A. I can't remember.

Q. Was it Mr. Battersby?

A. I could not say; I positively could not say.

Q. You mean you don't remember?

A. I don't remember, no.

Q. I mean what name he gave you?

A. It was one of the gentlemen connected with the management of the track.

Q. And that that package was made up for a specific purpose?

A. Wholly for specific purposes. He didn't say that

knew its destination or its object, but he said he knew it was handed to one of the managers of the track.

Q. Mr. Mitchell testified that all money that was made up in the afternoon, was made up by each teller in a separate package, which included the whole amount received by that particular teller. Do I understand you to mean that aside from the day's work there was a specific package of a thousand dollars made up for some particular person?

A. That is what I understood him to say.

Q. Did you get any inference as to the destination of that package after it went through the manager's hands?

A. No, sir.

John Oakey, being duly sworn and examined as a witness, testifies:

By MR. PARSONS: Q. Are you a lawyer?

A. I am, sir.

Q. Are you the gentleman of your name who has been spoken of as having been assistant to General Catlin when he was District Attorney?

A. I was assistant for him during the whole term of his office, six years.

Q. Were you charged with any particular class of duties?

A. The first two years that I was in General Catlin's office I attended entirely to the Grand Jury; I was present at all their sessions, and also attended to all the preliminary cases that were in the police court. The third year I began to try cases in the Sessions a great deal.

Q. And from that time on?

A. Yes, sir; the last three years almost altogether.

Q. Have you been present at any time during this investigation?

A. I was present the first day, I believe. I haven't been here since the first day or two; not since this department has been investigated.

Q. Has your attention been called to the testimony given

by Mr. Ridgway about a large number of indictments offences under the gambling statute which were dismissed in the month of December, 1883?

A. I saw that in the paper, sir; I read it in the *Ex*

Q. Do you remember the fact?

A. I do, sir.

Q. What did you have to do with the dismissal of indictments?

A. I think about a month before the end of General Catlin's term he spoke to me about getting up, or he requested me to get up all the indictments that were untried in the District Attorney's office, and I did so, with the assistance of the clerk, Mr. Bacon; we got up every indictment that was in the office untried. Some of those came over from Mr. Britton's term. There was a few of them that came over from his term—a very few. But as I had all the preliminaries of these cases, I knew pretty much in regard to the indictments, why they hadn't been tried. I then made out a list of every one of the indictments; and, as far as I knew, I wrote the reason why they should be nolle. For instance, there were a many cases where the witnesses were dead—the chief witness was dead, and that was the reason why they hadn't been tried at the time, or had not been tried in their regular course. Others were cases where witnesses were unable to be found, where they had disappeared; and as my knowledge went, I made that disposition of them. It took some time to accomplish that work, and one noon I went in with Mr. Bacon to General Catlin's office, and we went all over those indictments which I had prepared by this list, and called off the names from this list of indictments, and I gave the General the reason why each should be nolle; and whenever an indictment was nolle, he then turned it over to have my reason put on the back of it; and as General Catlin then instructed me, I wrote on the back of every one from this list that I prepared, the reason why these indictments were not nolle, so that in future, when his successor came, he should know the reason why they were nolle. I don't know how long it was before the end of the term.

General Catlin's term—perhaps a week after or more, say, I was in the Court of Sessions trying cases, and Mr. Bacon came in with this large bundle of indictments, a very great many of them; and I made the motion to Judge Moore to nolle these indictments. I took up, perhaps, for instance, a half a dozen and told him the reason why; that the complaining witnesses were dead; and those that were nolle on account of the witness not being able to be found; several cases were nolle on account of the death of the defendant. And having read a number of them, I said to Judge Moore that that was the general nature of all these indictments, and moved to nolle them, and they were handed to Mr. York, and that was all that was ever done about it; and after that there came into the office one or two scattering indictments, some that were overlooked or something of that kind, and they found out the reason why they should be nolle; but very few, not over three or four, perhaps.

Q. What reason did you assign to Judge Moore for asking to have dismissed the indictments about which Mr. Ridgway testified?

A. I don't think I made a motion in those cases. Those indictments in which Mr. Comstock was interested were not included in that number.

Q. Mr. Oakey, those are the indictments about which I wish information?

A. Well, those were not in my list at all. I know those were kept out purposely from the others by General Catlin's orders. I remember that from what General Catlin remarked.

Q. But did not these indictments that were kept out purposely in the end get in with the others?

A. Not to my knowledge, and not by me at all. I was as much surprised as any one when I found they were, because I remembered General Catlin's instructions in regard to those indictments when we went over the indictments and made a list, that those were among the indictments that were to remain in the office and were not to be nolle.

Q. When did you first learn that those indictments which were not to be nolle had been nolle?

by Mr. Ridgway about a large number of indictments offences under the gambling statute which were dismissed in the month of December, 1883?

A. I saw that in the paper, sir; I read it in the *Eagle*.

Q. Do you remember the fact?

A. I do, sir.

Q. What did you have to do with the dismissal of the indictments?

A. I think about a month before the end of General Catlin's term he spoke to me about getting up, or he requested me to get up all the indictments that were untried in the District Attorney's office, and I did so, with the assistance of the clerk, Mr. Bacon; we got up every indictment there in the office untried. Some of those came over from Mr. Britton's term. There was a few of them that came over from his term—a very few. But as I prepared all the preliminaries of these cases, I knew pretty much in regard to the indictments, why they hadn't been tried. I then made out a list of every one of these indictments; and, as far as I knew, I wrote the reason why they should be nolle. For instance, there were a great many cases where the witnesses were dead—the chief witness was dead, and that was the reason why they had not been tried at the time, or had not been tried in their regular course. Others were cases where witnesses were unable to be found, where they had disappeared; and as far as my knowledge went, I made that disposition of them. It took some time to accomplish that work, and one afternoon I went in with Mr. Bacon to General Catlin's office, and we went all over those indictments which I had prepared by this list, and called off the names from this list of indictments, and I gave the General the reason why they should be nolle; and whenever an indictment was turned nolle, he then turned it over to have my reason put on the back of it; and as General Catlin then instructed me to write on the back of every one from this list that I had prepared, the reason why these indictments were not tried, or nolle, so that in future, when his successor came in, he should know the reason why they were nolle. And I don't know how long it was before the end of the term.

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Q. But did not these indictments that were kept out purposely in the end get in with the others?

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Q. When did you first learn that those indictments which were not to be nolle had been nolle?

A. I saw it afterwards in the paper ; I think in the first month in the year 1884.

Q. Did you ever make an investigation to ascertain how it came about ?

A. General Catlin sent for me to come to his office, and asked me what my recollection was about those indictments. I said, "I don't know how in the world they were nolle ; I never moved the Court to have them nolle, and I don't see how they got there ; for your instructions were peremptory in regard to those, that they were not to be included in this list."

Q. Do you mean to be understood that you have no knowledge which will explain how those indictments came to be nolle ?

A. I don't know ; I don't know, sir, at all.

Q. How do you mean to be understood about the disposition that was made of them, that you did or did not make the motion ?

A. That those indictments were not in the bundle of indictments which I moved to be dismissed when I made the motion, and they were never so dismissed by me.

Q. In speaking about the note that was made of the reasons for dismissing the indictments, did you mean to be understood that the note was made on the indictment ?

A. I made them on this paper, and General Catlin instructed Mr. Bacon to write that on the back of each indictment, and I found out afterwards that Mr. Bacon had not fulfilled the whole of that duty.

Q. Is Mr. Bacon in the room ?

A. I haven't seen Mr. Bacon in six months.

Q. Is Mr. Bacon a lawyer ?

A. No ; he was a clerk in the Post Office previous to his coming to the District Attorney's office. He lives now down near Merrick, on Long Island.

Q. How long was he attached to General Catlin's office ?

A. All the six years General Catlin was District Attorney. I believe where Mr. Bacon lives is the station this side of Merrick. I don't recollect the name of it. It is two or three miles this side of Merrick.

Q. In whose custody were indictments ?

A. They were in the custody of Mr. Bacon, in the safe in the office.

Q. What I wish to ascertain is whether they were in the custody of the District Attorney's office?

A. Yes, sir ; in the safe.

Q. Under what circumstances could they leave the District Attorney's office in a regular and legitimate way?

A. After the parties had been tried the indictments were always returned to the Sessions Clerk, Mr. York.

Q. What was the course of business in the care of indictments which were dismissed?

A. We took the indictments from our safe ; that is, whatever Assistant District Attorney was in charge of cases in the Sessions, and he was instructed regarding it, as to making a motion before Judge Moore to dismiss the indictment, and he would give the reasons to the Judge for dismissing it, and thereafter an order would be entered on the minutes of the Court, that such an indictment was dismissed for such and such a certain reason.

Q. Did it not therefore require the instrumentality of the District Attorney's office to have a number of indictments taken to the Court so that the motion might be made.

A. Certainly.

Q. In the case of these indictments which were dismissed on motion during December, 1883, who took them to the Court of Sessions?

A. Mr. Bacon.

Q. Under whose direction?

A. Well, I presume under my direction, or General Catlin's. I was in charge of the Sessions at that time. The usual course of business was this : The chief clerk made out the calendar for every day's business and subpoenaed all the witnesses and got up all the papers : for instance, he would get the indictments for whatever cases were to be tried ; there might be half a dozen cases to be tried to-day, for instance, and he would get up those indictments, and if there had been any preliminary examinations before magistrates, those papers would be all put with the indictments and go to the assistant representing our office, who

was conducting the cases in the Sessions ; and then when he came to try the cases before the Justice who heard them when the cases were disposed of, whether they were found guilty or acquitted, then the indictments and all the papers were left in the Court of Sessions, in charge of the clerk.

Q. Do you mean the Committee to understand that you did or did not make the motion for the dismissal of the particular gambling indictments, which were dismissed December, 1883, and about which Mr. Ridgway has testified ?

A. Mr. Parsons, unless from the time we had made that bundle and gone over all the indictments, as I have testified to you, if, after to that, they had been put into the bundle, it was done so without my knowledge ; and if they were in the bundle when I made the motion to have them nolle and handed them to the Court, I don't know ; for I did not take out every indictment from the bundle, but took out half a dozen of the top ones and stated to Judge Moore that we had gone all over them with General Catlin and we wished to nolle these indictments.

Q. Who had access to the safe in which the indictments were kept ?

A. The clerks ; the safe was in charge of Mr. Bacon and Mr. Taylor, the assistant clerk, and they had the keys the same.

Q. Where is Mr. Taylor ?

A. He is over in the Eastern District in Grand Street and keeps a real estate office.

Q. What is his full name ?

A. Hubert or Herbert G. Taylor.

Q. What is the full name of Mr. Bacon ?

A. I think William.

Q. General Catlin has testified that the indictments spoken of by Mr. Ridgway were distinguishable from others through the fact that if his instructions were obeyed, no note was put upon them of any reasons for dismissal ?

A. Certainly, sir.

Q. How was it possible that so large a number of indictments which were distinguished in this way should be

fore you on the occasion when you made a motion before the Judge to dismiss the indictments and your attention not be called to it ?

A. I don't exactly understand your question, Mr. Parsons.

Q. If the instructions of General Catlin had been carried out, then the indictment that was to be dismissed would be distinguished from an indictment that was not to be dismissed, through the fact that upon one would be a note of reasons and upon the other there would not, isn't that so ?

A. But I told you that Mr. Bacon had not carried out those instructions of General Catlin, for I noticed when I was taking up the indictments in the Sessions that a great many of these indictments had not that note upon the back.

Q. Did you find any of them there that had that note upon the back ?

A. I assume that I did ; I don't remember distinctly in regard to that, but I know very well—I can recollect very well asking Mr. Bacon why he had not fulfilled the General's instructions. Now, whether he endorsed any of the indictments as he was instructed to do, I don't know ; I don't recollect ; but I remember that he had neglected his duty in some of them, because my attention was called to it in some of the indictments that I took out to present to Judge Moore.

Q. When was your attention called to that ?

A. When I made this motion before Judge Moore.

Q. How early in December ?

A. I think it was a week or two before the end of December.

Q. Then when you observed that General Catlin's instructions had been carried out and that the indictment did not carry with them this evidence of the reason for their dismissal, what did you do ?

A. I told Mr. Bacon to take them back and have them properly endorsed.

Q. Was that done ?

A. Well, that I don't remember.

Q. Was it done in respect to those of them that subsequently came to your hands?

A. I can't remember, sir, anything about that, whether he did take them back, or whether he endorsed them or not, because it was very near the end of our term, and we had a great deal of business to finish up, and I was in the sessions almost every day, and there was a great deal of business to do, and I don't remember ever having followed it up to see if Mr. Bacon had fulfilled those instructions.

Q. Did you not regard it as an extraordinary circumstance that so large a number of indictments, and all for gambling offences, could be dismissed during the month of December, 1883, without you knowing it?

A. I think it would be extraordinary; but, Mr. Parsons, you must remember that the number of indictments that we had to be dismissed and which were handed to me was a very large bundle.

Q. But were not these distinguishable through the fact that they were indictments under the gaming statute, and that as to them General Catlin had given specific directions that they were not to be dismissed?

A. But I didn't take over those indictments myself and I didn't take them out one by one; I took out half a dozen of the top ones and told Judge Moore that the reason for nolling these or dismissing these indictments was on these various reasons which I gave for them, and then I handed him the whole bunch of indictments. I don't take and look over ever one of them. They could put, I suppose, 25 more indictments in that bunch and I wouldn't know the difference from its bulk, whether it was much larger than when I took it from the safe or not. I don't know any reason that I have called my attention to it, or that I suspected anything wrong in connection with it; I never had any reason to suspect, and I never dreamed that there was anything wrong about it.

Q. As to this circumstance about which you seem to entertain the opinion that it was extraordinary, are you able to afford the Committee any better explanation than the one to which you have now testified?

A. No, sir, I am not.

Q. Do you remember an indictment for pool selling against Andrew McClellan ?

A. I knew Andrew McClellan, and I think there were indictments against him.

Q. What for ?

A. He was understood to be—I knew this fact : that whenever we tried any policy seller, or any policy case came before a justice, that he was always there, and I found that it was understood that he backed them—these policy sellers—in that he backed all the policy business in the City of Brooklyn.

Q. When did you form his personal acquaintance ?

A. During the term; I don't know as I ever had any personal acquaintance with him except just to bow to him ; I didn't know him by his own name—for a long time I didn't know who he was.

Q. Had you any acquaintance with him before you became Assistant District Attorney ?

A. No, sir.

Q. Was he under indictment while you were Assistant District Attorney ?

A. I think there was one indictment, but I don't know whether there was more than one or not.

Q. Do you know whether prior to your entering into your office he had been convicted of gambling ?

A. That I don't know.

Q. Was your attention ever called to that fact ?

A. No, sir.

Q. What was done, if anything, to bring Andrew McClellan to justice while General Catlin was District Attorney and you assistant ?

A. I don't remember.

Q. Was anything done to your knowledge ?

A. I didn't try him, that I recollect.

Q. Can you give any explanation that no prosecution of Andrew McClellan took place while General Catlin was District Attorney ?

A. I don't remember anything about that ; I have an indistinct recollection, since you call my attention to it, that

he was before the Grand Jury and that I was before the Grand Jury ; but I wouldn't swear positively that he was even indicted ; his case was before the Grand Jury, but I don't remember the fact of his having been indicted.

Q. Do you remember the case of William Stone ?

A. No, sir.

Q. Do you remember the case of any man by the name of Stone who was convicted in June, 1882 ?

A. I don't remember that particular name, sir, because there is nothing that impressed it on my mind in any way.

Q. Do you remember either of these names as belonging to persons who were convicted of gambling in June, 1882 : John Mangen, John W. Walker and Charles W. Smith ?

A. No, sir ; except Smith, who was a man who used to go around as a peddler and used to sell policy tickets to people who lived in these tenement houses ; there was a man named Smith who was indicted for that, for I remember that I convicted him.

Q. What was done upon his conviction ?

A. I don't remember ; I presume he was sentenced.

Q. That is just the question, whether he was or not ?

A. After he was convicted, then we have nothing to do with the sentence.

Q. Do you not move for sentence ?

A. No ; Judge Moore gives them two days ; that is the rule ; he states that on such a certain day they will come up for sentence. Judge Moore always sentenced everybody that was convicted before him, as far as I know. I should say that if he was convicted he was either sentenced or judgment suspended, or something of that sort.

Q. Do you mean to be understood that you have no recollection about Smith's case ?

A. I think, now that you call my attention to the name, that this was a man named Smith that I convicted of policy selling in that manner, and I only remember it from the fact of its being an unusual way of selling policy tickets ; he was the first one we ever caught doing it in that way.

Q. What did you understand to be the relation between Smith and McClellan ?

A. I don't remember, except in a general way ; as I

said, McClellan seemed to be the friend of everybody dealing in policy and was a backer of policy, and he gave bail for them, and always was around when they were before a magistrate for anything, and he was around on the trials at Sessions in such cases. That is the way I knew him; he was rather a distinguished looking man with white hair, and he looked more like a clergyman than a policy backer.

Q. What is the usual appearance of a policy backer?

A. Well, they don't look like clergymen; there is nothing in that kind of business that tends to give a clerical expression to a man's face that I know of.

Q. Have you observed that Mr. Ridgway has said that there were some persons—and notice that I do not ask you for the names—who were under conviction during General Catlin's term of office, against whom sentence had not been moved?

A. There were some cases tried by Mr. Backus that were removed before Judge McCue in the City Court, and they were convicted. I think there were several cases; I know I was trying the cases in the Sessions at that time, and that, somehow or other, seems to have fixed itself in my mind. I remember that he got several convictions on policy cases before Judge McCue up in the City Court.

Q. Can you explain why those persons were never sentenced?

A. No, sir; I don't know anything about it. I didn't have charge of them.

Q. Who in the District Attorney's office did have charge of those cases?

A. The assistant who tried and convicted the defendants would generally take charge of the cases and see that they were finally disposed of.

Q. What I wish to ascertain is who was the particular assistant in whose charge were those particular cases?

A. Mr. Backus, if I remember right; if those are the cases that you mean, that were tried by Judge McCue.

Q. Are they the cases about which you are now testifying?

A. Yes, sir.

Q. When first, if ever, did you know George H. Engeman with gambling?

A. I will tell you about Mr. Engeman. I knew him by sight until I saw him tried for the murder of Mr. Beecher when the Brighton Beach case was on trial in the Sessions court. I saw Mr. Engeman's name connected with the case from the time it was first introduced into that was somewhere in 1881 or 1882.

Q. Were you ever personally acquainted with him?

A. No, sir.

Q. Did you ever have personal conversation with his brother, William Engeman?

A. No, sir; I didn't know either.

Q. Or with William A. Engeman, who has been a son of William?

A. No, sir.

Q. Were you ever personally acquainted with Bauer?

A. Yes, sir; after he opened his saloon. And I knew Mr. Battersby also, he lived down in the country at Flatbush, and I knew the countrymen around.

Q. Was Mr. Battersby an old comrade?

A. Yes, sir; he used to come to the Conventions; he was the single delegate from Gravesend, and Mr. Battersby was the delegate from Flatbush, and he used to cast the vote for the delegation from Gravesend, and I was present at that circumstance.

Q. Is he a remarkable person in a crowd?

A. Yes, sir; I should judge he was a few inches in height.

Q. You have taken off six inches from General Catlin testified; Gen. Catlin was six feet high?

A. Was he a seven-footer? I didn't know how high he was.

Q. I will ask you now a few questions more. Matter whether he was six feet four inches high?

seven feet in height ; when did you first associate his name with gambling ?

A. I knew him very well, and I met him sometimes in the street, and I remember it caused me a great deal of surprise when he told me he was superintendent, or something, on the Brighton Beach track. I asked him what he was doing now, and he told me he was superintendent of Brighton Beach race track.

Q. When did that occur ?

A. I think that was three or four years ago ; yes, that is four years ago, and perhaps five.

Q. Was it while you were Assistant District Attorney ?

A. I think it was.

Q. Am I to understand from what you have just said, that Mr. Battersby interested himself in party politics ?

A. He did ; yes, sir ; he used to.

Q. When did you first know him as interesting himself in party politics ?

A. Years ago, sir ; I should say the last eight or ten years, and I don't know but earlier.

Q. Down to what time did he continue to interest himself in party politics ?

A. Well, I think three or four years that I have seen him in conventions. I wouldn't be positive about that either, Mr. Parsons.

Q. Do you mean down to within three or four years ?

A. Yes, sir.

Q. Not since then ?

A. I haven't been to many conventions myself since that, and I don't know.

Q. Has he been associated in public repute with politics since then ?

A. I have always understood that Mr. Battersby was always very much interested in politics in the town of Gravesend.

Q. Is Gravesend the town of which Mr. McKane has been supervisor and is ?

A. Yes, sir ; and Coney Island is in the town of Gravesend.

Q. I think Mr. McKane is shown to have been prominent in Democratic politics, and is at the present time?

A. I think he has been the Democratic delegate for Gravesend.

Q. Does it come down to this, that Mr. Battersby and Mr. McKane control the politics of Gravesend?

A. I think Mr. Battersby has controlled the politics of Gravesend on the Republican side since Colonel Stilwell left there, and I have always understood that Mr. McKane is the prominent Democratic politician there.

Q. How long have you been acquainted with Mr. McKane?

A. Oh, a number of years; I can't tell how long.

Q. Does your familiarity with Gravesend public affairs proceed from the fact that you have at any time resided there?

A. No, sir; but I lived at Flatbush, and until the county towns have all grown, so all the country people I used to know; I used to know everybody; I used to go to school together with a great many of them in the country towns, and at one time I knew every man in Gravesend, and all the teams, and perhaps all the cattle, almost; I knew everybody's house, anyway.

By MR. GREENE: Q. It has outgrown you a little now?

A. It has entirely outgrown me, and besides, I have lived in Brooklyn for fifteen years and have not kept up acquaintance.

By MR. PARSONS: Q. What did you say about putting your initials upon indictments which were to be dismissed?

A. Yes, sir; I think that when we were in General Catlin's office every indictment that we went over there—I remember we went over with my list—and I took out the list and put a pencil initial "O" on the back of those indictments, and those indictments were the ones, and the only ones, that were authorized by General Catlin to be nolle. But, as I told you, I think at that time there were four or five indictments not in that bundle at the time that were sent in—something that I don't recollect about. We had a

great many indictments for misdemeanor and all sorts of petit crimes that used to be sent before the Grand Jury, such as indecent exposure, assault and battery, etc., etc.

Q. Look at the bundle which I now hand you, and which is assumed to be made up of indictments dismissed in December, 1883, and say whether, upon any of them, you find your initials?

A. I see here is one that has my handwriting on it; it says: "Off for April;" the case came on for trial in April and went off, and so I made that mark. (Examining the bundle.) No, sir; I don't find my initials on any one of those.

Q. Will you look at the indictment I now hand you, an indictment against Timothy Coffey for assault in the first degree, and containing this memorandum on the back: "Action dismissed and bail exonerated December 11, 1883," and tell me whether that bears your initial?

A. That is my handwriting on there at the bottom of the paper.

Q. I ask you now about your initial; I want to find out what to look for to find these initials which you say were so put by you upon the indictments were to be dismissed?

A. I took a pencil, if I remember correctly, and on the back I put an "O."

Q. Do you find the "O" there?

A. I do not.

BY MR. SHEPARD: Q. Look at the left hand upper corner?

A. Yes, sir; excuse me; that was one of them; that is the mark that I put on them, that "O." I thought I put it on the back.

BY MR. PARSONS: Q. I hand you now some others, merely for the purpose of ascertaining whether when you did initial indictments which were to be dismissed, it was done by a sort of flourish of an "O" on the left hand upper corner of the face of the indictment?

A. Yes, sir; that is right.

Q. Is that the way in which it was done?

A. Yes, sir.

Q. Do you observe that the indictments which I hand to you and which you recognize as having your initials are for other offenses than gambling?

A. I didn't notice what they were.

Q. Never mind what particularly they were for; my question is whether they are for offenses other than gambling?

A. These are for grand larcenies and assault in the first degree; and here is one for aiding a prisoner to escape; not any of them for gambling.

Q. Will you look at the bundles of indictments endorsed as having been dismissed December, 1883, and assumed to be for gambling offenses; the first one is stated in print to be "Indictment for being a common gambler;" and say whether you find your initials on either one, or anything else in your handwriting?

A. (Examining the papers.) I don't see, sir, my initial here at all; I don't see my initialing on any one. I see on one of them, as I called your attention before, where the case was on for April, and in my writing it says it went off for some reason or other.

MR. PARSONS: Will you now give place to Mr. York, whom I wish to examine. It may be that his examination will suggest to me something else that I shall wish to ask you.

Bernard J. York, being duly sworn and examined as a witness, testifies as follows:

BY MR. PARSONS: Q. What position attached to the Court of Sessions of the County of Kings has been held by you?

A. Clerk.

Q. How long have you been Clerk of the Court of Sessions?

A. Well, for the last five years I have been clerk; at that time, about five years ago, the office was changed and separated from the County Clerk's office, and I was then appointed Clerk of the Court of Sessions. Prior to that I

had been a deputy of the County Clerk for about fifteen years, making my connection with the Court in the whole time about nineteen or twenty years.

Q. What have been your duties?

A. General supervision of everything done in the clerk's office; either the entire work done by myself or under my direct supervision, so that nothing has been done in the Court which it is the duty of the clerk or the subordinates of the clerk to do which has not been done either by me or under my immediate supervision.

Q. And with your knowledge?

A. And with my knowledge.

Q. And were you clerk in December, 1883?

A. Yes, sir.

Q. Was that after the separation of the Clerk of the Court of Sessions from the County Clerk?

A. Yes, sir; the clerks were separated; the clerk of the Sessions was separated from the County Clerk in 1882, I think it was

Q. What was the course pursued where indictments were dismissed during the time that General Catlin was District Attorney.

A. The same as had always been pursued in other cases; the indictments were brought in by the District Attorney, or one of the assistant district attorneys, and a motion was made to the Court, and they were handed to the Court; and the papers were handed to him by me, sometimes; the indictments were handed up to the Court, and he looked over them, and the attorney stated what it was for and what the reason was, and the Court directed a dismissal of the action. It is now known as a dismissal of the action.

Q. And what entry was made of those?

A. An entry was made in the minutes; the indictments were then taken and copied into the rough minutes by the name and the offence, and that was afterwards transferred into the engrossing book.

Q. Have you a record of the number of indictments for various kinds of gambling which were dismissed in December, 1883?

A. Yes, sir; I have brought into court all the indict-

ments that were dismissed during that month of 1883, and I find the number to be 230.

Q. Have you separated the indictments which were dismissed during December, 1883, which were for gambling offences, from those which were not?

A. Yes, sir; I have separated those from the others.

Q. Is this bundle that I hand to you the bundle which contains the gambling indictments?

A. Yes, sir; those are the indictments that I handed to you, 57 in number; they were not all dismissed on the same day.

Q. But were they all dismissed during the month of December, 1883?

A. Yes, sir, during the month of December, 1883.

Q. Is this the fact, Mr. York, that during the month of December, 1883, there were dismissed fifty-seven gambling indictments, and that all were dismissed on the motion of the District Attorney or one of his assistants?

A. Yes, sir; these gambling indictments—policy indictments they are; I suppose that covers gambling.

Q. Will you take the bundle and mention the date upon which the successive dismissals took place?

A. I can do it shorter, perhaps, from these minutes.

Q. In any way in which you can do it most conveniently and give the number on each day?

A. Do you mean gambling only?

Q. Only the gambling?

A. Nine were dismissed on December 22d; five on December 26th; eighteen on December 29th; twenty-five on December 31st.

(After the completion of Mr. York's testimony, and an other witness had been examined, Mr. York was recalled and testified to the total number of dismissals of indictments on the several days mentioned by him in his direct testimony, as follows):

THE WITNESS: December 22d, there were 147 dismissals including the nine gambling indictments; that make 138 that were not gambling.

On the 26th of December, the total number dismissed was nine; that includes the five that I testified to before

as gambling indictments ; making four others than the gambling.

December 29th, twenty-two in all, including eighteen gambling indictments ; making four that were not gambling.

On December 31st, thirty-seven indictments were dismissed including the twenty-five designated heretofore as gambling.

Of course there were quite a number of the persons indicted that were indicted more than once, and they all go in to make up the total.

BY MR. PARSONS : Q. Do you know who made the motions in those particular cases ?

A. Mr. Oakey.

Q. What was said by Mr. Oakey in the way of giving reasons for the dismissal of the indictments, if any ?

A. I don't know that there were any reasons given ; I don't remember exactly what language was used by him. It isn't customary to give reasons ; it is taken for granted that where a District Attorney comes into court and states that indictments should be dismissed, that there is no reason for their further continuance. The Court always grants the District Attorney's motion to dismiss indictments, and I have never known a case where the Court refused to do it.

Q. Do you not recall from personal recollection during December, 1883, which was the last month of General Catlin's incumbency as District Attorney, that a very large number of indictments were dismissed upon his motion or upon the motion of his assistants ?

A. Yes, sir.

Q. Now, in connection with the dismissal of those indictments, what occurred in the way of assigning reasons to the Court ?

A. I don't know, sir ; I don't know that anything occurred other than the making of the motion. There may have been something said in connection with it, but I don't recall what it was.

Q. This is what I wish to ascertain, whether you have

any recollection that any reasons were assigned to the Court?

A. I have none.

Q. During all the time that you have been attached to the Court what has been the practice with reference to assigning reasons?

A. There has not been any practice. As a general thing no reasons are assigned; sometimes something is stated. The District Attorney brings in the indictment in his hands and says to the Court: "I think this indictment or that indictment ought to be dismissed."

Q. Is that the rule or is that the exception?

A. That is the rule.

Q. What you mean then is that, that is the rule, not to assign reasons?

A. Yes, sir.

Q. You mean that the making of the motion was the assigning of the reason?

A. Yes, generally; sometimes something may be stated at the time it is done. Generally it is taken for granted that the District Attorney knows all about the case, and whether it should be dismissed or not. It is something that has been done by every District Attorney, without exception, to clean out the office at the close of his term; that has always been done through all the district attorneys during my twenty years of experience—that at the expiration of his term, he generally dismisses all the indictments that he thinks ought not to be tried. Every one that has been there has done that, and there have been cases where a very much larger number of indictments have been dismissed than in this case of General Catlin.

Q. And in such cases has the Court relied upon the mere motion without any special reasons being mentioned?

A. Always.

Q. Or, in other words, it was assumed with respect of indictments, the subject of this "cleaning-out" process, that the District Attorney had satisfied himself as to the propriety of the dismissal, and the Court made no inquiry about the matter?

A. Yes, sir ; that has always been done in that way.

Q. Did anything occur of which you now recollect in connection with the dismissals of these gambling indictments to call the attention of the Court to the fact that among the general indictments that were being dismissed these gambling indictments were included ?

A. Nothing special ; no, sir. Something has been said about those gambling indictments—some question about these indictments being in the package that was presented in Court ; and I will say this : That there can be no question about the fact of those gambling indictments, as you call them, being in the bundles of indictments that were dismissed upon the respective days of each date that I have given you. There is no question about their being brought into Court and handed up when the motion was made.

Q. And is there any question that they were included in the motion that was made by the District Attorney ?

A. No question whatever ; there can't be any question.

Q. Is there any question that the indictments, among which these gambling indictments were included, were handed up by the District Attorney or by somebody who made the motion from the District Attorney's office, at the time the motion was made to the court upon which they were dismissed ?

A. No, sir. I don't know whether he carried them in his hand, or whether they were brought up from the District Attorney's office by officers or clerks, or how they were brought there ; but they were brought there from the District Attorney's office and in that bundle were handed up to the court.

Q. What I wish is, to negative the idea that they were in your custody or in the custody of the court, except as they came over from the District Attorney's office when the motion was made ?

A. Prior to the code, all indictments and all papers connected with criminal matters were kept in the District Attorney's office and were under his control. When the code changed the law, it regulated that matter of the custody of papers, and all indictments and other papers in criminal

proceedings were directed to be kept in the custody of the clerk of the court.

Q. From what date?

A. September, 1881, I think. After that time the indictments were taken from the custody of the District Attorney's office, and all other papers also in relation to criminal proceedings, and since that time they have been in my custody except in this way: That after an indictment presented by the grand jury it is delivered to the District Attorney for the purpose of being disposed of, and a receipt being taken from his office for the indictment, it is retained by him until disposed of, unless for some reason or another it is not to be tried immediately. In this case when they came to clear up the books of their office many of these indictments they obtained from the files of the court—

Q. You mean many of those that were the subject of the motion to dismiss?

A. Yes, sir; they were brought from my office to the District Attorney's office for the purpose of examination by him. After they left our office at that time they did not come all together back again, either to the court or the clerk's office, until this motion was made upon the case and was granted.

Q. How distinct is your recollection that Mr. Oakley was the assistant who made the motion for the dismissal of these indictments; I mean the motion that was made in December, 1883?

A. How distinct is my recollection?

Q. Yes.

A. Well, I hardly know how to answer that; I recollect the fact that Mr. Oakley made the motion. When you ask me how distinct my recollection is, I don't quite know how to answer that.

Q. Do you mean to be positive about it?

A. I am very clear about it in my mind, that the motions were made by Mr. Oakley. The form of the order entered is, "Upon the motion of the District Attorney." That is the form that is always followed in all cases where the motion is made by any assistant or when any motion is made

on the part of the District Attorney, that the record shows the motion to have been made by the District Attorney. That has always been the practice from time immemorial.

MR. BACKUS (sitting in the audience): Mr. Parsons, will you kindly ask him the question whether I made the motion to dismiss any of these indictments?

MR. PARSONS: I am going to put you on the stand shortly.

BY MR. GREENE: Q. Mr. York, in what court are all the indictments found here by the Grand Jury tried?

A. The Court of Sessions.

Q. And that is Judge Moore's Court?

A. Judge Moore's Court.

Q. Does that Court really then try all the indictments substantially that are found in this city?

A. He tried all indictments, and does all the criminal business by way of indictments that is done in this county, and he does also a very large part of the civil business too.

Q. To what extent does he hold civil court?

A. To a very large extent.

Q. Half his time?

A. Oh, no. There is one week in each term devoted to the trial of civil cases by a jury. The equity part of that character of business, not requiring a jury, is done by Judge Moore at all times in the month. Saturday morning of every Saturday in the year is set apart for Special Term business.

Q. Then the Supreme Court, Oyer and Terminer, tries hardly any criminal cases?

A. I don't think the Oyer and Terminer have tried any, with, possibly, the exception of one case where Judge Moore sent it to them, acting as a committing magistrate.

Q. Does the City Court try any?

A. No, sir. There is some question about that in the City Court.

Q. Then the whole criminal business is substantially done in the City of Brooklyn in Judge Moore's court?

A. Yes, sir; of the whole county.

Q. Of the whole county of Kings?

A. Yes, sir.

Foster L. Backus, being duly sworn and examined as a witness, testifies:

By MR. PARSONS: Q. Have you been present during the examination of Gen. Catlin, Mr. Oakey and Mr. York?

A. I was present during the examination of Mr. Oakey and Mr. York; I was present through the examination of Gen. Catlin except this morning; part of the time I was absent this morning.

Q. Were you here when inquiry was made about an indictment against McClellan?

A. Yes, sir.

Q. Have you any personal recollection of that case?

A. Yes, sir.

Q. Were you here when inquiry was made about the cases and the two men of the name of De La Motte?

A. Yes, sir.

Q. Do you remember those cases?

A. Yes, sir.

Q. Were you here when inquiry was made about some convictions for gambling offenses, in respect of which motions for sentence had been made at the end of Gen. Catlin's term?

A. Yes, sir.

Q. Do you remember about those cases?

A. Yes, sir; I remember no cases where motions for sentence were not made; I remember the testimony upon that subject of certain men having been convicted and no sentence having been moved; but I remember no cases where sentences were not moved, because it is not correct.

Q. Do you remember the fact that during December 1883, there were a large number, 57 it is said, of indictments for gambling which were dismissed; and have you heard or read the testimony upon that subject?

A. I heard some of the testimony and I don't know that I have read any testimony upon that subject; but

learned after General Catlin's term of office expired that among the indictments that were dismissed during his last month the lottery-policy cases were dismissed.

Q. Do you refer to the fifty-seven indictments about which Mr. York has testified?

A. Yes, sir.

Q. Did you have anything to do with the dismissal of those indictments?

A. No, sir; not with the dismissal of them. I had something to do with the subject of whether they should be dismissed.

Q. Were you present at the conference with General Catlin, the result of which was instructions from him that they should not be dismissed?

A. I was present at the meeting that has been referred to. I was present at the meeting between General Catlin, Mr. Bacon and myself.

Q. When instructions were given about those particular indictments?

A. Yes, sir.

Q. What were the instructions?

A. I was called into General Catlin's office with him alone. We discussed the subject of what indictments should be dismissed. I think the conversation that I had with him occurred growing out of a conversation with Mr. McKane.

Q. What Mr. McKane?

A. John Y. McKane. I think it was following that conversation that we had the conversation when Mr. Bacon was called into the office relative to these policy cases—lottery policy cases.

Q. What instructions were given about those cases?

A. By General Catlin to Mr. Bacon, do you mean?

Q. By any in the District Attorney's office to anybody else connected with the District Attorney's office?

A. Well, the question arose about dismissing the gambling indictments. I will give you the conversation when McKane was there, if you want it.

Q. I am coming to that in a moment; I want to find out

first what instructions were given upon the subject by District Attorney to any person attached to his office?

A. General Catlin told Mr. Bacon not to dismiss any indictment of the lottery policy cases, or any of the gambling cases where Mr. Comstock and his men had furnished the evidence. Mr. Bacon said that these old policy indictments that were there when I came into the office ought of them to be dismissed. I told Mr. Bacon in General Catlin's presence, when Mr. Bacon said that there could not be any convictions in the cases where Comstock furnished the evidence—I told General Catlin in Bacon's presence that every case that I had tried where Mr. Comstock furnished the evidence, or where his men were the witnesses, we had obtained a conviction, and that the evidence was substantially the same in the other cases that were placed on the calendar for trial; General Catlin told Mr. Bacon that no one of those cases should be dismissed—not one of them.

Q. Can you explain how they became dismissed?

A. If you want my opinion about it, I can give it to you.

Q. No; I want to know whether you have any facts?

A. No, sir. The last that I knew about those cases was at that interview; and the next time that I heard about them was when it was published in the press—in the newspapers, that they had been dismissed.

Q. Did you have anything to do with the actual dismissal of those cases?

A. No, sir.

Q. Who did make the motion?

A. I don't know, except upon information.

Q. But you did not?

A. No, sir; I didn't make the motions in any of the cases where indictments were dismissed. There were many cases that should have been dismissed, but I did not make the motion in any of them.

Q. Now you may state the conversation with John McKane?

A. After the cases went off the calendar we had the conversation; John Y. McKane's case was put upon the calendar.

dar; and all of the cases of the officers that were appointed by him who were indicted were upon the calendar, and the day—I think it was the very day that they went off the calendar—I kept them there for two days to give time to get the witness there——

MR. PARSONS : All I want, Mr. Backus, is the conversation with Mr. John Y. McKane.

THE WITNESS : I will come to that.

MR. PARSONS : But come to it at once, please.

THE WITNESS : Mr. McKane went into the office, I think, that very day. I was called into General Catlin's office when Mr. McKane was there. General Catlin told me that Mr. McKane wanted the indictments against him dismissed, and asked me whether they ought to be dismissed; I told General Catlin in Mr. McKane's presence that the facts in Mr. McKane's case were such that I considered that the case against him ought not to be dismissed. Mr. McKane said that he was not guilty of these indictments, and that it was unfair to have them go over to another district attorney; that he was there ready to try his case and had his witnesses there; that he was not guilty of the charges and that he ought not to be tried; and General Catlin asked me what I thought about it. I told him that the evidence against Mr. McKane showed that he had appointed officers and assigned them to duty to keep the men in line who were buying pools, and to keep them in line when they went there to get their pool tickets cashed; that the evidence showed that daily he assigned them to that duty; that the evidence showed not only that, but that he had gone into Brighton Beach Hotel pool room and had bought pools; that he had given the money to a man and put him in the line, and that the man bought the pools and returned them to McKane. Mr. McKane said he never had done such a thing as that.

Q. Do you mean that McKane said that to you or in your hearing?

A. Yes, sir; he said that to me, and he said it in General

Catlin's hearing. I told him that the evidence of Comstock's men showed that he had put the man into the line and that the man had bought the pool and returned the pool to him. Mr. McKane said that was not true. I said "Comstock's men swear to that, and we must take that true; and if the evidence that is presented to the District Attorney is true, you are guilty of that charge."

Q. In this immediate connection I wish to know whether Mr. McKane, in this conversation, denied that he ever had bought a ticket?

A. He denied that what I said the evidence was, was true; he said he had not done that. I said that the evidence of Mr. Comstock's men showed that he had come into the pool room when pools were actually being sold and that he had given a man money and that the man had taken his place in the line and had bought the pool and returned the pool ticket to him; and he said that that was not true.

Q. Have you now stated all that was said in this interview when Mr. McKane was present?

A. No, sir; I have not.

Q. Was anything else said bearing upon the subject of the dismissal or the non-dismissal of the indictments?

A. Yes, sir.

Q. That you may state.

A. There was considerable conversation back and forth. Mr. McKane said he had always been a friend of General Catlin's, and that he was entitled to have the indictments dismissed. I said, "Mr. McKane, if you are a friend of General Catlin, you will not ask to have the indictments dismissed, for Mr. Comstock thinks that General Catlin has been guilty of corrupt conduct, and has so charged; and if General Catlin dismisses these indictments, when the evidence that is before him and in my possession shows conclusively that you are guilty, then it would not be a friendly act to General Catlin for you to ask to have the indictments dismissed." And I said to him, "If you are innocent, you are entitled to an acquittal and not to have the indictments dismissed; if you are innocent you ought to prove it; but the evidence that we have got shows that

you are guilty." General Catlin then said to Mr. McKane, "If you think you can get Mr. Backus to dismiss the indictments, take him into his room and try it." We went into my private room, and there the conversation ended with him, for when I went into my private room I asked him if he wanted that I should dismiss the indictments after that and he said no; that he would take his chances with the next District Attorney.

Q. What did that have to do with the dismissal of these policy indictments?

A. I went immediately to General Catlin about these cases, and I called the attention of General Catlin to the fact that Mr. Comstock was suspicious of him; that the evidence in all these Coney Island cases, the evidence furnished by Comstock's men was clear, and that the evidence in all the policy cases was clear; that I had examined them and that wherever Comstock or his men had furnished the evidence it was clear and conclusive, and I thought there should be convictions in all the cases; and then it was, I think, that he called Mr. Bacon in.

Q. In which conversation was it that you told General Catlin that in every case where Comstock had supplied the evidence which had been produced there had been convictions?

A. It was when Mr. Bacon was called in.

Q. And was that true?

A. Yes, sir.

Q. Was the evidence in reference to the dismissed cases partly documentary, or was it exclusively evidence by parol?

A. In these lottery policy cases, it was part documentary and part parol. There was certain evidence that was given before the Grand Jury upon which these indictments were found that was given before I was there, and I relied upon conversations with Mr. Comstock and upon documentary exhibits.

Q. What documentary evidence was there?

A. The paper called the policy-slip, in the lottery policy, that Comstock had produced; and in addition to that, in some cases, the manifold books were seized, and there was

considerable other trash that was picked up in connection with it.

Q. The paraphernalia of the office?

A. Yes, sir.

Q. When had that paraphernalia been seized?

A. All I know about that, I can tell you, was what information was.

Q. Did you find it in the office?

A. No, sir; the paraphernalia was not left with us. I think Mr. Comstock kept that; or some of it was kept by Zunt. The evidence in the cases that I know about that were placed on the calendar for trial, and I think I placed them all on the calendar for trial, was the evidence contained by Mr. Comstock, and the paraphernalia, and I think by Detective Zunt, who was with him when the raid was made.

Q. When you refer to the cases being placed on trial, what do you mean?

A. Well, I put every lottery case that was in the office when I went there on the calendar for trial, and the Stone case -- you are wrong about Stone being tried in June, 1882, for it was along about February; I went there in July, 1881, and I put that case on as quick as I could; I put every lottery policy case that was in the office where Comstock's men were witnesses--every one of them I put on the calendar at one time, and I had 22 men on the calendar for trial, and every man that was under indictment in Brooklyn was on the calendar for trial at one time; and that was the time Stone was tried.

Q. And is that one of the cases that you have spoken of when you said that every case that you had tried where the evidence was furnished by Comstock or his men the accused had been convicted?

A. No, sir. Stone was convicted. Judge Troy and Lynch defended him. We had quite a fight over that case, and when Stone was put on his defense I called a man named John Walker to prove that the paper shown was commonly known as a policy lottery ticket. At the close of the examination of that man, I announced to him that we would try his case next. We summed up the case, and when the jury started out I called John Walker's case.

and Mr Comstock was in Court with me. Judge Troy asked that we should wait and see what the Jury did in Stone's case. I think we had 44 indictments; 45 indictments, perhaps, against 22 different men; and Judge Troy asked that we should wait and see what the jury did in this Stone case. I said: "No, I want to try Mr. Walker; and I am going to try these cases right through". Judge Troy said then in Court, in Mr. Comstock's presence, and in the presence of Judge Moore, that if I would take out one indictment against each man where I said that I could get a conviction — where the evidence was substantially the same, that he would advise each one of the men to plead guilty to one indictment. I had one indictment against some and two against others and three against others, I think. I consulted with Mr. Comstock about it and with Judge Moore, and he thought that it was a fair way to dispose of it and that we should be satisfied with one indictment against each one of those policy dealers.

Q. You mean one conviction?

A. Yes, sir. And Judge Troy said he would have them plead guilty; that if I would stop, and the jury came in and convicted Stone, he would advise the men to plead guilty to one indictment each. Well, the jury came in and convicted Stone, and I immediately moved Stone's sentence, and Judge Moore fixed February 27, I think, for the sentence of Stone; and then I called on the others, and Judge Troy asked me to give him a little chance to talk with his men about it, and I gave him two days. I said, "We are here with all our witnesses and we are ready to try these cases; I have set apart this time for the trial of these cases, and I want to dispose of them." He said, "I will consult with my clients; I will take your word for it when you say you have got evidence that is substantially the same as this, and I will advise them to plead guilty each to one indictment. Judge Moore said that was right, and Judge Moore announced therefore that those cases were off the calendar. I then asked Judge Troy to have his men plead; from that time it ran along until June, I think, when I couldn't get them to plead. I again got the cases

on for trial, but it was not convenient for Judge Moore to try them; he had a great deal to do; he had civil cases and Judge Moore was in very poor health. The old Court of Sessions room would lay almost any man out who would sit day by day and try to do anything there, owing to the bad ventilation. And we went along from that time until June, when I moved in June—I think it was in June and I think the cases were taken from that Court and transferred to the City Court, including these other cases which have been referred to as convictions under General Catlin, and in which sentences were not moved.

Q. What was the result of the removal of those cases to the City Court?

A. I went to the City Court before Judge McCue and tried and convicted every man.

Q. Were they all tried from testimony furnished by Mr. Comstock and his men?

A. Yes, sir; the same substantially as the other; there was not a case that failed; every one of those police cases were clear cases for conviction. Before the jury came in with the verdict in the first case, and I think it was Walker but I won't be positive about that—while the jury were out in the first case, I empanelled another jury and was trying another case; and the jury came back in four or five minutes after they went out, and the verdict being guilty, I moved the sentence of this man that was convicted up in the City Court. I have had a conversation on that subject with Mr. Comstock and Mr. Oram, and Mr. Oram remembers as I do, that I immediately moved sentence in the City Court on this man that was convicted.

Q. But what date was that?

A. The date when they were convicted.

Q. What was the date?

A. I cannot tell.

Q. What month was it?

A. June, 1882. Now, I moved the sentence of the first man, and I remember Judge McCue's remark in answer to it. He had been informed that Stone had been convicted in the Court of Sessions; that Stone had not yet been sentenced; and when I moved the sentence of the first man

that was convicted, Judge McCue says, "I will wait and see what Judge Moore does with the Stone case." In all of those cases in the City Court sentence was moved, and the same remark applies to all of those cases.

Q. What was in the end done with the Stone case?

A. Frequently, on several occasions, I asked Judge Moore when he would sentence Stone. He said he would fix a day when all the cases that had been disposed of come up for sentence. The 27th was the first day fixed; there was no sentence that day, although I don't remember why. It ran along from that time, and I supposed until last fall that Stone had never been sentenced; but I found upon an examination of the subject that Mr. Stone was sentenced to pay a fine of \$25, in the month of December, 1882. He was convicted in February, if I remember correctly, 1882, and the other men were convicted in the City Court in June, 1882.

CHAIRMAN BACON: Q. Was Stone an old offender?

A. I don't know, sir; I don't remember. These are all indictments found before I went into the office. I don't remember anything about these men except what I learned on an examination of the evidence, and I don't remember whether there was one indictment or two. But Stone was an old offender, and that is one reason why we took that first. Now, there has been a question about why McClellan was not tried; if you want to know upon that subject, I can tell you.

Q. Before passing from this question of the motion for sentence, I wish to ascertain from you how many convicted gamblers remained over from General Catlin's term upon whom sentence had not been passed?

A. I supposed that Stone had not been sentenced, and I supposed that all these cases where I convicted in the Court of Sessions were not sentenced.

Q. Do you mean Judge McCue's cases?

A. I may say that about the City Court cases.

Q. I want to get your statement about the cases where there was no sentence; are those the only cases of which you know?

A. Yes, sir.

Q. Now, the case of McClellan ; are you personally acquainted with McClellan ?

A. No, sir.

Q. Did you ever have any acquaintance with him ?

A. No, sir ; I think McClellan knows me, and I think I know him.

Q. Is it true, as has been stated here to be the fact, that McClellan always turned up as the man behind the persons indicted for gambling ?

A. Well, you see, I was not in Court when these indictments were obtained. They came over to me ; when I went into the office I found these cases. Now, my information about him (and I can't tell where it came from) was that McClellan was the head man in the lottery policy business ; and lottery policy is a system of obtaining money by under pretences ; that is what it is.

Q. Who did you understand to be his principal assistant ?

A. That I don't remember.

Q. Was it not Stone ?

A. I don't think it was ; I don't know whether Stone was his principal assistant or not ; I know this, that the evidence against Stone was so clear that he was the man picked out as the first one to try so as to get a sure case. There was no embarrassment about Stone's case.

Q. Did you hear General Catlin testify about a man named Smith ?

A. Yes, sir.

Q. How do you associate him in your mind with McClellan ?

A. Not at all, except that he was a policy man ; and if I remember rightly, I had some information, that did not belong to the trial, that Smith was a very intimate associate with Mr. McClellan.

Q. Now, you may state anything you think the Committee should know in reference to the case of McClellan ?

A. McClellan's case was talked of between Mr Comstock and me. We were anxious to try McClellan. The case was set down at the same time that all those other cases were, and he was the man that I was anxious to hit and the man that Mr

Comstock was anxious to hit; he was indicted for the same offense that Stone was, and Stone's case was selected by Mr. Comstock, and I agreed with him, that it was one of the clearest cases; and the only reason why McClellan was not tried was because he came into the category of those who were going to plead guilty on one indictment in each case if the jury convicted Stone. And I was informed that Mr. McClellan had previously, before I had been into the office, been actually convicted for the offense, and, as I understand, had served a sentence of some time.

Q. General Catlin desires that you shall be asked whether he did not repeatedly ask you to try the McClellan case?

A. Yes.

Q. What is your recollection in that regard?

A. Oh, yes; I think the McClellan case was often referred to, and I told General Catlin we were going to try it; that I had got them all down on the calendar, and that we were going to take them in the order that we were surest of convictions. I wanted to make his case the surest case, and I told General Catlin that we were going to try McClellan's case.

Q. Do you know the case against the De La Mottes?

A. Yes, sir; not to tell, though, anything particular about them except this—that I think the De La Mottes were the most persistent men, for I think that they stuck at their business, and I think we had them arrested after that during the time that I was in office.

Q. Can you explain why they were not prosecuted?

A. No, sir, except that their cases were set down for trial on February, and they went with the others. If you ask if that is my single and only explanation of why they were not tried, it is not. We expected to try De La Motte at that Session of the Court. We expected to try every man who was indicted for lottery policy, and I had them all down and I was going to take them up in their order until I had finished them up. I haven't any doubt of what the result would have been if we had taken them right

through the calender. I think they convicted.

Q. You stated shortly since that an explanation of the circumstance gambling indictments became nolle does that explanation depend upon together of facts leading to an infer

A. Yes, sir ; I formed an opinion ments were dismissed. I form it n) who it is said made the motion for d man who was in the office—another office—and, taken together with my who is said to have made the motior know that there is a man in the offic have those indictments dismissed.

Q. What was his name ?

A. Mr. Bacon.

Q. Where is he now ?

A. I don't know that I have seen since I left the office. Well, I think or twice since General Catlin left the

Q. Is he the person described as li

A. Yes, sir ; it is at Merrick. I is correct, and I have no doubt th concur in the statement. I hav the course that this thing took the indictments and handing th and the putting them in the safe, taking them into the Court of Sessio to him. I say I have an opinion in those lottery policy cases, that were General Catlin, came to be dismissed of how they got into that bundle tha up of indictments to be dismissed.

Q. Have you reason for believing the instrumentality of this man Baco missed ?

A. Yes, sir ; I have. But that m and I think he ought to have a chan that is my opinion about it.

Q. How did you learn that he had a wish that they should be dismissed ?

A. I learned it from conversation with him. He said they ought to be dismissed.

Q. If these indictments were dismissed through his instrumentality, it must have been surreptitiously and in violation of instruction ?

A. I don't know, except they were taken from the bundle of indictments that were not to be dismissed ; that he took them after they were separated from those that were not to be dismissed, and distributed them through this big package of indictments that were to be dismissed. I cannot understand any other explanation that there can be about it.

Q. Did not something occur between you and Mr. Bacon relating to the instrumentality of Bacon in bringing about the dismissal of the indictments much more significant than the mere expression by him of a wish arising from the fact that these indictments had been a long time in the office ?

A. No, sir : I should say this, that my opinions are more easily formed from a long acquaintance with Mr. Bacon and associations in the office.

Q. I wish to go a little beyond the domain of opinion and will ask you if you did not observe that there were relations between Mr. Bacon and these indicted people, or some of them.

A. Well, the question as to whether there were relations is something I cannot speak of with certainty. I know this, that of course there were relations ; but whether you inquire of me as to whether he had any definite relations with them, I cannot say that ; except this, what I observed had led me to a belief upon the subject.

Q. I wish you to state anything you observed of relations between Mr. Bacon and the gamblers ?

A. You mean these lottery policy cases ?

Q. These and any other persons who were indicted or proceeded against under the gaming statute between whom and Bacon you observed some relations ?

A. I cannot say as to the relations except this, that the lottery policy men. I think—and I cannot say positively whether it was Mr. McClellan—and if he were here I could tell whether he was the man—he is a gray-haired man and clean-shaven; that is the man I understand to be McClellan.

Q. He is the same man, I think, that General Catlin described as having the appearance of a clergyman; do you know what the appearance of a clergyman is?

A. Yes, I know what the appearance is of those that I know of.

Q. Well, does that description suit him; does it describe Mr. McClellan?

A. I was never so impressed by him.

Q. Can you describe him in any other way except clean-shaven?

A. Well, he is a good-looking man, he had a very fair face and gray hair and very light complexion; and he had a clean-shaven face.

Q. Is there any doubt about this, that he was a person under indictment for gambling?

A. None at all; and that when other men were arrested this man used to come in there on the question of bail for some of these other men; and that if there was a lottery policy man caught and was in any of the Courts, McClellan used to come in on the question of bail to raise; I think he used to be the man who would bring that question to Mr. Bacon's attention, and Mr. Bacon used to come to me about the question of bailing these cases.

Q. Did you observe that Mr. Bacon favored the gamblers?

A. Oh, yes; he favored these lottery policy men, in my mind.

Q. Were there other persons indicted under the gambling statute as to whom you noticed the same thing, that they were in favor with Mr. Bacon?

A. No, I couldn't say, Mr. Parsons, that Mr. Bacon was in favor of these people. He is the man they used to come to.

to to make out bail bonds, and Mr. Bacon, as a rule, was courteous to all who came in there on the business of indictments; and that in seeing so many of these people Mr. Bacon seemed to know them all. But I wouldn't say that Mr. Bacon had any corrupt motive, because he was anxious to have these cases dismissed or was on intimate and friendly relations with them.

Q. What did you observe about his relations with Mr. McKane?

A. I don't know anything about his relations with John Y. McKane; nothing that I observed.

Q. Was your attention called to anything about his relations to any of the Coney Island Race Course people?

A. When the arrests were made down there they came in in a great crowd to the office; some of them got there before they came back with the men who were arrested, and there was a great multitude of those men who came in there to give bail, many of them at the same time. There was quite a rush of that kind of business at the same time. And I wouldn't say that I saw any indication of any great amount of friendship between Mr. Bacon and these people.

Q. Did you observe that they were acquaintances?

A. Yes, generally, but I couldn't say which ones. I never knew any of these men except Mr. Battersby, and I didn't know Mr. Battersby until he came in about the time this raid was made, and then I remembered him as being the tall man.

MR. ARNOLD: Are you going to have this witness here again, Mr. Parsons?

MR. PARSONS: We can bring him here again at any time.

MR. ARNOLD: I would like to have you show by this witness, in connection with his testimony to-day, how many other indictments were disposed of besides nine on December 22; five, December 26; eighteen, December 29, and twenty-five, December 31.

MR. PARSONS : Covering all these cases ?

MR. ARNOLD : Yes, sir.

(The witness, Mr. York, was then recalled, and upon inquiry by Mr. Arnold, stated the number of indictments that were dismissed besides those referred to as gambling indictments dismissed on the 22d, 26th, 29th and 31st December, 1883. His testimony upon that subject is embodied in his main testimony next below his statement the number of gambling indictments moved for dismissal by the District Attorney on the days indicated by Arnold.)

Adjourned to Friday, April 1, 1887, at 10 o'clock.

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